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1904



HEARINGS

BEFORE

U.S. Congress.
SUBCOMMITTEE OF HOUSE COMMITTEE ON APPROPRIATIONS.

CONSISTING OF

MESSRS. HEMENWAY, VAN VOORHIS, BURKETT,
LIVINGSTON, AND UNDERWOOD,

OF
8 IN CHARGE OF
24

DEFICIENCY APPROPRIATIONS FOR 1904 AND PRIOR YEARS

ON

GENERAL DEFICIENCY BILL.

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1904.

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GENERAL DEFICIENCY BILL.

Hearings conducted by the subcommittee, Messrs. J. A. Hemenway (chairman), H. C. Van Voorhis, E. J. Burkett, L. F. Livingston, and Oscar W. Underwood, of the Committee on Appropriations, House of Representatives, in charge of deficiencies for the fiscal year 1904 and prior years, on the days following, namely:

WEDNESDAY, *April 6, 1904.*

PENSIONS, PAYMENT OF.

STATEMENT OF HON. EUGENE F. WARE, COMMISSIONER OF PENSIONS.

The CHAIRMAN. We have before us, Mr. Commissioner, a letter from the Secretary of the Interior, in which he states he has received a communication from you explaining the necessities and reasons for an additional sum of \$4,000,000 for the payment of army and navy pensions for the current year, and inclosing your letter.

DEPARTMENT OF THE INTERIOR,
Washington, April 5, 1904.

HON. JAMES A. HEMENWAY,
Chairman Committee on Appropriations, House of Representatives.

SIR: I have the honor to submit herewith a communication from the Commissioner of Pensions, dated the 1st instant, in which he makes explanation of the necessity and reason for the additional sum of \$4,000,000, for the payment of army and navy pensions for the current fiscal year, and which he desires may be considered in connection with the deficiency estimate for that amount which was transmitted by this Department through the Secretary of the Treasury, under date of the 16th ultimo, for the appropriate action of Congress.

Respectfully,

E. A. HITCHCOCK,
Secretary.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, April 1, 1904.

The SECRETARY OF THE INTERIOR.

DEAR SIR: On March 1, 1904, I sent a requisition to you asking that \$2,500,000 more be required from Congress for the purpose of paying up pensions rendered necessary by recent legislation, there having been during the past fiscal year and during the expired portion of the present fiscal year much new legislation, which may be briefly enumerated as follows:

1. Pensions to those who heretofore had served in the Confederate army or had deserted from the Union Army but afterwards served in the Union Army.
2. Also the adding of certain organizations to the pension roll, as for instance, those who served in a number of Indian wars, and others.
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3. The increasing of pensions for total deafness.
4. The restoration of widows, dependent mothers, or dependent sisters who had married.
5. The increase of pensions to those who lost limbs in the service of the United States.

6. The increase of pensions to Mexican war survivors.

7. A very large number of special acts bearing high rates of pension.

8. In addition to the foregoing the Bureau is doing much more work than usual, and the result is a great many more rejections and a great many more admissions and certificates. This increased amount of work in the Bureau accomplishes the finishing of a large amount of delayed and accumulated business.

The foregoing has necessitated for this current fiscal year at least two and a half millions more than the estimates, which were made long in advance of the fiscal year. When the estimates for the fiscal year were made it could not be presumed what legislation would take place, nor could the effect of recent and pending legislation be accurately determined, so therefore it was that on March 1 of the present fiscal year it was found, as above stated, necessary to call for two and a half millions more of money to meet the requirements of the year.

Since that time Order No. 78 has been issued, which is the order establishing an age limit for pensions under the new law, and it is estimated that a million and a half additional will be required on that account for the current fiscal year.

The estimate for the first two and a half millions had gone to the Treasury, but afterwards, since the issuance of said Order No. 78, the first estimate has been recalled and the second estimate made for four millions.

There are still a large number of special pension bills pending, and it is believed that four millions is the smallest possible sum with which the Bureau can operate during the present fiscal year.

Very respectfully,

E. F. WARE, *Commissioner*.

The CHAIRMAN (resuming). You speak of the increase of pensions to Mexican war survivors. What is that increase, Mr. Commissioner? How are they pensioned now?

Mr. WARE. They are pensioned now at \$12 per month, where formerly they were pensioned at \$8. That is the law of March 3, 1903, which provides that all Mexican war pensioners on the pension roll shall be increased from \$8 to \$12.

The CHAIRMAN. Yes; that is Mexican war. That includes the Mexican widows, too, does it?

Mr. WARE. No; that only includes the survivors of that war. That act went into effect about a year ago. The operation of it, however, in payments has been confined largely to this year. The number of persons coming under that law will average a hundred a month. I would put that at 1,200 for this year, at an increase of \$48 each.

The CHAIRMAN. Now, under existing conditions you think that for the balance of the fiscal year you will require \$2,500,000 deficiency, due to the reasons you assign in this letter?

Mr. WARE. Yes, sir. And if you will pardon me, I would like to explain in relation to one of these classes, and that is the pensions granted, first, to soldiers who were in the Indian wars, and concerning which so many questions arise as to proof and matters of that kind. The payments in those cases are almost entirely in this year.

The other matter I wish to mention is in connection with the joint resolution regarding Confederate soldiers and deserters. I held, on the reading of that law, that the law was not retroactive, and hence that new applications must be filed. That held up the operation of that law—I supposing that to be the correct ruling—until nearly the beginning of this fiscal year, when Mr. Campbell, the Assistant Secretary of the Interior, overruled me on that proposition. I ordered then that the effect of that ruling should be noted and tab kept of it in the Pension Bureau, and the amount of back pay—if that is the

proper term—kept account of. And I would say that the retrospective pensions that comes up under that would amount to \$1,000,000.

Mr. UNDERWOOD. What is that?

Mr. WARE. It would amount to \$1,000,000 of retrospective payments, and that happens in this way: A large number of the persons who had served in the Union Army made application for pension, and it was found that they had been deserters or had been in the Confederate army. Their claims were rejected, and the Bureau had a large number of claims of this kind, in which the persons had concealed their former service and had put in application for pension only under their last service, which on the face of it seemed to be honorable, because they had got an honorable discharge. But when it was found that they had been in fact deserters from a former service, and had served in the Confederate army, their claims were immediately rejected and they lay there in the rejected files of the Bureau, and many of them for years.

When this joint resolution referred to was passed, I claimed that that joint resolution gave them their first claim, or gave them the first title that they had, and I compelled all those who sought its benefits to file a new application. They took that on appeal to the Interior Department and overruled me. That let in all those back claims for pensions clear back to the date of their filing—ten years or more, some of them; and the result was that I, of course, was obliged to respect the rulings of my superior officers, and I ordered an account kept of those retrospective pensions that came under that order, and it has already passed \$900,000, and will probably amount to a million before the fiscal year ends.

Mr. UNDERWOOD. Do I understand that half of what you want now to be allowed by the committee is for back pay for these deserters?

Mr. WARE. No, sir; not that; but I have been obliged to pay these already, and hence it is that my funds are running short. Of course, when the Department overrules me and says that these claims are valid I issue my certificates, and they go to the Treasury and get their money. I have no control of it.

The CHAIRMAN. Are there any further questions, gentlemen?

Mr. VAN VOORHIS. You do not mean that it applies to deserters? Only those who served in the Confederate army?

Mr. WARE. No, sir; it also applies to deserters. If you will permit me I will read the provision:

JOINT RESOLUTION construing the act approved June twenty-seventh, eighteen hundred and ninety, entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved June twenty-seventh, eighteen hundred and ninety, entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," is construed and held to include all persons and the widows and minor children of all deceased persons, subject to the limitations of said act, who served for ninety days in the military or naval service of the United States during the late war of the rebellion, and who have been honorably discharged therefrom, and section forty-seven hundred and sixteen, Revised Statutes United States, is amended accordingly: *Provided, however,* That the foregoing shall not apply to those who served in the First, Second, Third, Fourth, Fifth, and Sixth Regiments, United States Volunteer Infantry, who had a prior service in the Confederate army or navy and who enlisted in said regiments while confined as prisoners of war under a stipulation that they were not to be pensionable under the laws

of the United States, nor to those who, having had such prior service, enlisted in the military or naval service of the United States after the first day of January, eighteen hundred and sixty-five.

SEC. 2. That in the administration of the pension laws any enlisted man of the Army, including regulars, volunteers, and militia, or any appointed or enlisted man of the Navy or Marine Corps, who was honorably discharged from the last contract of service entered into by him during the late war of the rebellion, shall be held and considered to have been honorably discharged from all similar contracts of service previously entered into by him with the United States during said war.

MR. UNDERWOOD. Was that passed by the House? Was that the law, Mr. Commissioner?

MR. WARE. Yes, sir; that is the law.

MR. VAN VOORHIS. What page is that on?

MR. WARE. It is on page 92 of my last annual report. Perhaps you would like to hear the proviso. I will read it:

Provided, That such enlisted or appointed man served not less than six months under said last enlistment or appointment, that his entire service under said last enlistment or appointment was faithful, and that he did not receive by reason of said last enlistment or appointment any bounty or gratuity other than from the United States in excess of that to which he would have been entitled if he had continued to serve faithfully until honorably discharged under any contract of service previously entered into by him, either in the Army, Navy, or Marine Corps, during the war of the rebellion.

Approved, July 1, 1902.

MR. VAN VOORHIS. Of course, his widow would be entitled to a pension under that, too?

MR. WARE. Yes, sir.

MR. VAN VOORHIS. You gave your estimates on the cost of the pensions under that resolution, did you not?

MR. WARE. No, sir; but I said that the retrospective features of it would cost about \$1,000,000; and then in addition to that there are the prospective features of it in which there are probably 1,300 pensioners besides who had drawn more or less under it.

MR. VAN VOORHIS. Then what is your estimate under that resolution alone for the balance of this fiscal year?

MR. WARE. I do not know that I could separate that, except to say this, that in paying out these various items I find out that I am running short on my general balance. I have not separated the amounts.

MR. VAN VOORHIS. You are not able to specify it?

MR. WARE. No; I am not able to specify the exact amount; but I would perhaps be very near right in saying that that act has cost \$800,000. It is practically new legislation which has come into the Bureau.

MR. VAN VOORHIS. Is that true, then, as to all the other items you set forth here? Here are eight of them. You do not give a separate estimate of any of them?

MR. WARE. No, sir. But take, for instance, this pension roll as regards Indian organizations and others. That is a recent law, and they are going on the roll all the time, and that will put on at least 2,000, and that will make a payment of \$200,000.

MR. VAN VOORHIS. That is under the legislation concerning the Indian wars?

MR. WARE. Yes, sir.

THE CHAIRMAN. Then the increase of pension for total deafness—that was increased from \$72 to \$100, was it not?

MR. WARE. Yes, sir; but that has not reached me yet, but it will reach me, so that those can probably be all fixed up before the first of

the next session. The number of those remains very constant on the roll. There were 601 of them two years ago.

The CHAIRMAN. You were speaking of those totally blind. I mean this increase for total deafness.

Mr. WARE. Oh, yes; that is not such a very great item, but it is something.

The CHAIRMAN. As to those who are totally blind, you say there are 601 now on the rolls?

Mr. WARE. Yes; there are 601 now. They will come in. I may say here that if that law passes at this session, I can get all of those paid up, and will get them all paid up before the 1st of July this year, because in taking up the estimates and in getting the statistics on that, I have got them now so that I can immediately fix them up.

The CHAIRMAN. Now, Mr. Commissioner, go to the last item. Under the Order 78 you add about a million and a half dollars, in your judgment. Do I understand that under that order new applications will have to be filed before action will be taken? Or have you made a rule in regard to it?

Mr. WARE. I have made no rule in regard to that, but am considering it, and while I do not feel as if I could commit myself fully to the proposition just now, I think that it is the best way that new applications should be filed in all cases in which the claims have heretofore been passed upon, either by admission or rejection.

The CHAIRMAN. Now, then, if these new applications are filed it would take, of course, some time before the work of adjudicating could really commence. As I understand, your order went into effect April 15?

Mr. WARE. No; April 13.

The CHAIRMAN. Now, then, of course these applications would come very rapidly, and you would begin to adjudicate them as rapidly as possible?

Mr. WARE. Yes, sir.

The CHAIRMAN. Now, you think your estimate of a million and a half dollars is necessary for the number that could be adjudicated between April 13 and June 30?

Mr. WARE. I ought not to call that an estimate. In fact, it is a conjecture and not an estimate. I am really unable to say what will be the result of that order in regard to the amount of claims which will be poured in. If a large number of original claims should be poured in they would be very easy of adjudication, and some of my divisions are so well caught up now in their work that they are current on increase work, and we could dispose of these claims very rapidly. But I have no way of telling to what extent that order will affect applications, and for that reason I say that that is not an estimate. It is a conjecture.

The CHAIRMAN. You simply guess it off the best you can, without having any precedents or any means of ascertaining just about how rapidly this work can be done or these applications will come in?

Mr. WARE. Yes, sir.

The CHAIRMAN. Now, Mr. Commissioner, have you made any estimate as to the probable increase of appropriations that will be made necessary by this order, say, for the fiscal year 1905?

Mr. WARE. For the coming fiscal year?

The CHAIRMAN. Yes.

Mr. WARE. No, sir; I have not. I have felt that it would be best to wait until I can see how the applications developed after the 13th of April. I can tell in sixty days from now, I believe, about where that order will reach. But at the present time it would be a guess based upon a guess. There is a great deal of controversy in regard to what is called the "unknown army." It is my impression that it is larger than it is generally believed to be. The extent to which old soldiers who do not now draw pensions will come forward and ask for pensions is a matter which is merely a conjecture. If they should all come forward, it would be a large payment. If they should maintain the same apparent views that they now have, that they are well enough off to-day without a pension, or that they have some sentimental views on the subject that they would not draw pensions, and that should continue to prevail as it does now, there would be but few claims filed; and the difference is so great that anything on that subject would be a conjecture.

The CHAIRMAN. So then, Mr. Commissioner, from the appropriation that has already been provided in the pension appropriation bill there would be ample money to pay any increase that does result from this new order until Congress convenes again, when, after having opportunity to make an estimate intelligently, you can estimate on the urgent deficiency bill for any additional money that may be necessary?

Mr. WARE. That is my view of it. I may say here that, after thinking this matter over a great deal, and seeing no chance of a basis on which I could put anything that had an element of reason in it, I simply said that I thought I would call for an increase of 1 per cent, about, on the amount which was annually appropriated—about 1 per cent—which would make about a million and a half dollars. I made that in my own mind as the best conjecture that I could, that 1 per cent on the annual appropriation would be about what I would call for, and that may be too much.

Mr. VAN VOORHIS. You have referred to the "unknown army," which you think is very large. Is it your theory that those men have not applied for pension because they did not need it, and on sentimental grounds?

Mr. WARE. Yes, sir; largely. And the way I explain that is this: I was in the largest Grand Army of the Republic post in San Francisco, at a large meeting not long ago, and the question came up in regard to the post, and the adjutant of the post said, "We have the largest post on the Pacific coast," and he added, "It may surprise you, but one-fourth of the members of this post draw no pensions." Now, that was the first proposition. The second one is that in my own Bureau I have 470 old soldiers, and 105 of those, except perhaps two or three deaths since I made the estimate, do not draw any pension, although they are right in there where they can get them if they make application. Twenty-five per cent of the old soldiers in the Pension Bureau, out of pure sentiment, do not draw pensions. I was talking with one of them the other day who served four years and three months. He is as poor as can be, but he will not draw a pension, nor would he apply for one; and all he has to do in the Bureau there is to apply for one in order to get one, and he does not apply because of this sentiment. This sentiment, I know, prevails. It is talked to me all the

time I travel. I meet with soldiers, and they say, "I do not draw a pension and never will."

Mr. VAN VOORHIS. You do not think that these men who have entertained these views up to this time would under this law apply under the age limit?

Mr. WARE. I feel that that might be true, and yet at the same time I do not dare risk it, for if I should run short of money and the fact should get into the newspapers that one pensioner was not paid for want of funds Congress would be in hot water until the 7th of December next.

The CHAIRMAN. That would not occur, and never will.

Mr. WARE. No, sir; I do not think it will.

Now, there is a very funny thing in the statistics upon that subject. The amount of new original pensions coming in from that "unknown army" seems to run about 14,000 a year. It seems as if there were about that many either moral or financial breakdowns among them, which bring into the Bureau that number of applications yearly.

The CHAIRMAN. About how many, did you say?

Mr. WARE. Fourteen thousand; and it seems the fewer they get, perhaps the higher the increase, owing to their advanced age; and ultimately, perhaps, they will all be on the pension roll.

The CHAIRMAN. Mr. Commissioner, about how many surviving soldiers are there, as near as you can estimate, who are not on the pension roll?

Mr. WARE. Just at this moment there are about 875,000 soldiers, all told, that can, I think, be positively said to be alive, outside of deserters. The number in addition to that depends upon the difference in the tables of mortality statistics, and it is entirely within the bounds of probability that there are 25,000 more than that. But I put it now at 875,000, because I think that number can be demonstrated.

Mr. UNDERWOOD. Eight hundred and seventy-five thousand old soldiers altogether, you mean?

Mr. WARE. Old soldiers now living.

The CHAIRMAN. How many of them are now on the pension roll?

Mr. WARE. There were about 703,000 on the 1st of last July. Taking the number of original pensions which have been issued to them and deducting the deaths, I would say as an estimate—not based upon figures, but as an estimate—that there were 690,000 of them now on the pension roll.

The CHAIRMAN. Leaving about 185,000 not on the roll?

Mr. WARE. Yes, sir.

Mr. VAN VOORHIS. If this deficiency is granted, do you think that the amendment to the pension appropriation bill, put on by the Senate committee, should be made?

Mr. WARE. Perhaps not; but in view of the fact that so large a number of private pension bills are coming through, which are to me a very undeterminate quantity, I would not be able to pass on that. I do not think I can estimate on it any better than the committee could, although I considered that feature in the estimates. You are speaking now of the totally blind, are you?

Mr. VAN VOORHIS. Yes, sir.

Mr. WARE. I had that in mind, but I do not believe that in my report to the Secretary I put that in.

The CHAIRMAN. In any event it does not hurt if you do get a couple of hundred thousand dollars too much?

Mr. WARE. No; it will not hurt. If it is not needed it will not be spent, because I am not letting down the bars over in my department. If there are any bars let down they are not in my department.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, April 7, 1904.

HON. J. A. HEMENWAY,
House of Representatives.

DEAR SIR: In furtherance of the conversation which I had with you yesterday concerning the unpensioned soldiers here at work in the Bureau, I call your attention to my last annual report. At the top of page 43 you will find that on the 1st of last January there were in the Bureau 401 soldiers who were pensioned and 103 who were not pensioned.

If in the Pension Bureau, where the facilities for getting pensions are better than elsewhere, the number of those unpensioned is equal to 25 per cent of those who are pensioned, it is easy to understand how on the outside the proportion would be greater. If the status all over the United States was as great as in the Pension Bureau, then the unknown army is fully as large as estimated; and if the ratio outside of the Pension Bureau is greater, then the unknown army is larger.

It does not do to say that those who have not applied for pension are probably deserters or bounty jumpers or persons who are not entitled to pension, because the figures which I made excluded deserters and bounty jumpers.

There has just left the Bureau a man who is not drawing a pension and who carries a bullet with him and is wounded sufficient for a good pension, but who refuses to draw one. In the Bureau there is a Lieutenant Shanklin, who was an aid-de-camp on the staff of Gen. R. B. Mitchell, both known to me as brave and worthy men. Mr. Shanklin is almost 80 years of age and refuses to draw a pension. There is also in the Bureau a Mr. Hanback, who served over four years, with an exceedingly fine military record. He draws no pension and, although his salary is small, refuses to ask for one. I have examined his record and know that he could get a pension if he wanted it.

These instances are those which make it difficult for me to say who will come forward from the ranks of the unknown army and claim a pension. They may be many and they may be few; no estimate can be made—nothing but a conjecture.

I have the honor to be, very respectfully,

E. F. WARE, *Commissioner.*

CLAIM OF MASSACHUSETTS FOR REIMBURSEMENT OF EXPENSES IN RAISING TROOPS, WAR OF THE REBELLION.

STATEMENT OF JOHN A. SULLIVAN, REPRESENTATIVE FROM MASSACHUSETTS.

The CHAIRMAN. Now, Mr. Sullivan, go right ahead and make your statement.

Mr. SULLIVAN. I return these documents—one a letter from the Comptroller to the chairman of the committee; another from the Comptroller to the Secretary of the Treasury, and another a statement showing the basis on which allowance is made to the State of Massachusetts for expenses incurred on account of moneys borrowed to aid the United States to raise volunteers for the war of the rebellion.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, March 5, 1904.

HON. J. A. HEMENWAY, M. C.,
Chairman Committee on Appropriations, House of Representatives.

SIR: I have the honor to inclose herewith a copy of my decision made in the case of the State of Massachusetts for reimbursement of expenses paid by the said State to raise troops, etc., in the late war of the rebellion.

These claims are audited under authority of the act of February 14, 1902 (32 Stat. L., 30).

The Auditor for the War Department found there was due said State, as a legal claim to be appropriated for by Congress, the sum of \$2,536,458.04.

On the 26th of June last the Secretary of the Treasury directed me to reexamine the settlement so made by the Auditor. The copy of my decision, herewith transmitted, evidences the result of such reexamination.

It is found therein that there is due the State of Massachusetts on account of said claim the sum of \$1,611,740.85, instead of \$2,536,458.04 as found by the Auditor, making a difference of \$924,717.19. My reasons for finding the amount due the State and in differing with the Auditor as aforesaid are fully set forth in the decision.

The principal differences are in the following items:

The Auditor allowed the State on account of premiums paid for gold with which to pay the interest and principal on the first bond issue the sum of \$886,389.88. I disallowed this amount in toto.

The Auditor charged the State with the increment received for a certain period on the amount of the direct tax collected by the State. The amount of this direct tax was \$700,894.13.

I do not charge the State with any increment collected on the investment of these tax collections, but do charge it with all increment earned and collected by the State on account of investments made by the State on moneys paid it by the United States on account of the war debt.

The amount charged against the State on this account is \$478,515.73.

I trust your committee will understand the basis upon which this settlement has been made with the State of Massachusetts. It has been my endeavor to apply the same principles in the settlement of all the claims of the various States, viz, to make the States whole on account of their expenditures.

It requires an appropriation to make this settlement effective. The Secretary of the Treasury will, shortly, I assume, certify this claim for your consideration as a legal claim. The facts are all before you, the same facts upon which I determined the matter as set out in the decision supra. If I have committed any error, you have the opportunity to correct it. It represents much labor and my best judgment upon the facts of this case as disclosed and gathered from the State and other sources.

Respectfully,

R. J. TRACEWELL,
Comptroller.

[Appeal No. 9150.]

THE TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, March 3, 1904.

THE SECRETARY OF THE TREASURY.

SIR: In accordance with your direction of June 26, 1903, I have reexamined the claim of the State of Massachusetts for reimbursement of expenses incurred and paid by said State in aiding the United States to raise the Volunteer Army for the war of the rebellion, being the cost for interest and other expenses on account of moneys borrowed for said purpose.

The Auditor for the War Department, per settlement No. 23191, dated June 22, 1903, certified a balance due the said State on the said claim of \$2,536,458.04, the basis of said allowance being set forth as follows:

"Under date of September 15, 1899, the State of Massachusetts filed in this office a claim in which it was alleged that there was due the State, under act of July 27, 1861, \$2,598,344.47, on account of interest paid on moneys borrowed for the purpose of raising and equipping volunteers to suppress the war of the rebellion, including premium on gold to pay such interest. On September 26, 1899, this claim was transmitted to the Secretary of the Treasury for reference to the Court of Claims, and on June 23, 1902, said claim was returned by the court without an opinion as to its merits, but accompanied by the report of the auditor of the court for the information of the accounting officers.

"Under date of October 10, 1902, a new claim was filed, in which it is alleged that there is due the State the sum of \$4,540,271.30. This amount now claimed includes the amount originally alleged to be due (in the claim filed September 15, 1899), and comprises interest on short-time notes; interest on bonds to the amount of \$3,600,000, issued for the purpose of equipping volunteers; interest on bonds to the amount of

\$209,885.61, issued for purposes of coast defense; expenses for engraving, printing, and advertising said bonds, and cost of premium paid for gold with which to pay the interest and principal of the above-mentioned bonds.

"The total amount allowed the State of Massachusetts, under act of July 27, 1861, as shown by the statement furnished by the division of bookkeeping and warrants, was \$3,908,088.04, of which amount \$166,007.44 was charged back to the State on account of sales of property, payments by disbursing officers, etc., leaving the amount actually paid to the State, including the amount of the direct tax, which was offset against these claims, \$3,742,080.60.

"To meet expenses on account of raising and equipping volunteers, specific appropriations were made by the State legislature to the amount of \$3,700,000, as shown by chapter 216, laws of 1861, chapter 147, laws of 1862, and chapter 98, laws of 1864, and the issue of bonds for the full amount appropriated was authorized by the same acts. The total amount of bonds actually issued under these acts was \$3,600,000, no bonds being issued under the authority granted by chapter 98, laws of 1864. The balance of the amount expended by the State for the benefit of the United States appears to have been obtained from the ordinary revenues of the State or from taxation.

"Prior to the issue and sale of bonds, and in advance of any authority from the State legislature, the State treasurer, by authority of the governor and council, issued short-time notes to raise money to meet expenses in raising troops.

"The action of the treasurer in issuing these notes was subsequently ratified by the legislature.

"These notes were redeemed with the proceeds of the sale of bonds, being mostly redeemed in July, August, and October, 1861. Also in December, 1861, and January, 1862, notes were issued to the amount of \$260,000, which were redeemed in July and August, 1862, with the proceeds of the second issue of bonds, amounting to \$600,000, which were sold in July, 1862. As the total amount of notes and bonds outstanding at any one time but slightly exceeded the total amount expended for the benefit of the United States to that time, it is considered that the full amount expended for interest on these notes should be refunded. The total amount of interest paid on short time or emergency notes, as shown by statement filed, is \$25,988.28.

"The \$3,000,000 of bonds issued under authority of act of the legislature approved May 21, 1861 (chap. 216, laws of 1861), all bore interest from July 1, 1861, and were payable in various amounts on the 1st day of July of each year from 1871 to 1876.

"The \$600,000 of bonds issued under authority of act of the legislature approved April 25, 1862 (chap. 147, laws of 1862), all bore interest from July 1, 1862, and were payable on the 1st day of July, 1877, \$400,000, and on the 1st day of July, 1878, \$200,000. Of the total amount of bonds issued \$1,012,500 was issued to the Union loan sinking fund.

"The sinking fund was established by act of the legislature approved May 21, 1861 (chap. 209, laws of 1861), for the purpose of redeeming the Union loan bonds authorized by chapter 216, laws of 1861. The money in this fund was absolutely at the disposal of the legislature, so that the issuing of bonds by the State, payable to this fund, was in effect but the issuing of bonds payable to itself, and could incur no liability for interest. The State is therefore entitled to no reimbursement for interest paid to its Union loan sinking fund or to any other fund which was at the disposal of the legislature. From the schedules filed it also appears that \$20,000 of the \$600,000 issue of Union loan bonds was issued to the Massachusetts school fund. This fund not being a constitutional or trust fund, but at the disposal of the legislature, at its pleasure, is considered to be in the same position as the Union loan sinking fund and no liability exists on the part of the United States to reimburse the State for interest paid to said fund.

"Considering the amount of bonds issued to the sinking fund and school fund as not issued, leaves bonds to the amount of \$2,567,500 which were issued to bona fide purchasers, and on which the State paid interest to date of maturity, as shown by the schedules filed. The dates on which these bonds matured were as follows: July 1, 1871, \$198,000; July 1, 1872, \$324,500; July 1, 1873, \$300,000; July 1, 1874, \$300,000; July 1, 1875, \$420,000; July 1, 1876, \$675,000; July 1, 1877, \$201,000, and July 1, 1878, \$149,000. The total amount of interest paid on these bonds was \$2,013,220.

"The total amount expended by the State for engraving plates, printing, and advertising Union loan bonds, as shown by the evidence filed, was \$3,185.52, and said amount is allowed in full.

"GOLD PREMIUM.

"The State claims reimbursement for amount paid for gold with which to pay the principal and interest on the Union loan bonds, when due.

"The act of the State legislature approved May 21, 1861, which authorized the

issue of \$3,000,000 Union loan bonds, made no mention of the kind of money with which the principal and interest of these bonds should be paid, nor does it appear that there was any general law in force at that time which required the payment of the State debts in any particular kind of money. Prior to the passage of the act of Congress approved February 25, 1862, known as the legal-tender act, the lawful money current was gold and silver coin, and all business transactions were made on the basis of the value of such coin. Immediately after the legal-tender act became a law the legislature of Massachusetts, by act approved March 22, 1862 (chap. 62, laws of 1862), enacted that 'The interest and principal of all script or bonds of the Commonwealth of Massachusetts which have been or may hereafter be issued, shall, when due, be paid in gold or silver coin.'

"In conformity with this act the State paid the interest and principal of all its bonds in gold, not only the Union loan bonds but on a large amount of bonds issued for State purposes both prior and subsequent to the date of the Union loan. From the evidence furnished it appears that gold was purchased in the open market by the State treasurer and deposited in various banks. The coin so deposited was considered a special deposit, against which checks payable in coin were drawn by the treasurer for the amount of interest and principal due. That the State acted in good faith and for what was considered to be the best interests of the State in making its bonds payable in coin, can not be doubted.

"It is therefore considered that the expense incurred by the State for the purchase of gold with which to pay the interest and principal of the Union loan bonds is a proper charge for reimbursement under act of July 27, 1861.

"The State has furnished a statement showing all purchases of gold, with the premium paid thereon, from 1862 to 1878, inclusive. From an examination of this statement it appears that the gold was purchased only as needed; that is, no purchase for any considerable amount was made more than a few days prior to the date it was due and payable as interest or principal. The interest on the Union loan bonds was due semiannually on the 1st of January and July. The statement referred to shows that large purchases of gold were usually made the latter part of December and June and the early part of January and July, which apparently were for the payments due on the 1st of January and July. It is therefore assumed that the rate of premium paid for gold to meet the interest due on the 1st day of January, was the average rate paid for all gold purchased during the months of December and January, and the rate for that due on the 1st day of July, was the average rate paid for all gold purchased in June and July.

"Not all of the interest and principal was paid promptly on the date when due, but it is reasonable to suppose that the State made provision, by the purchase of gold, to redeem all bonds and interest coupons at or near the period when due.

"Computed on the above-stated basis, the amount of gold premium paid on the \$2,567,500 of Union loan bonds was as follows:

Amount of premium paid on gold purchased to pay interest on bonds of Union loan.

Date due.	Amount of bonds.	Rate.	Interest paid.	Rate of premium.	Amount.
		<i>Per cent.</i>			
July 1, 1862	\$2,217,500	3	\$66,525	0.07216	\$4,800.44
January 1, 1863	2,217,500	3	66,525		
Do	350,000	2½	8,750		
July 1, 1863	2,567,500		75,275	.32705	24,618.69
January 1, 1864	2,567,500	3 and 2½	75,275	.3706	27,886.92
July 1, 1864	2,567,500		75,275	.4773	35,928.76
January 1, 1865	2,567,500		75,275	1.2868	96,826.23
July 1, 1865	2,567,500		75,275	1.2279	92,489.17
January 1, 1866	2,567,500		75,275	.42525	32,010.69
July 1, 1866	2,567,500		75,275	.4551	34,287.65
January 1, 1867	2,567,500		75,275	.53475	40,253.31
July 1, 1867	2,567,500		75,275	.36785	27,689.91
January 1, 1868	2,567,500		75,275	.38255	28,796.46
July 1, 1868	2,567,500		75,275	.33815	25,454.24
January 1, 1869	2,567,500		75,275	.40108	30,191.30
July 1, 1869	2,567,500		75,275	.34932	26,236.06
January 1, 1870	2,567,500		75,275	.37305	28,081.34
July 1, 1870	2,567,500		75,275	.20453	15,396.09
January 1, 1871	2,567,500		75,275	.11976	9,014.98
July 1, 1871	2,567,500		75,275	.10762	8,101.10
January 1, 1872	2,019,500	3	60,585	.13091	9,854.25
July 1, 1872	350,000	2½	8,750		
January 1, 1872			69,335	.06132	6,373.27

Amount of premium paid on gold purchased to pay interest on bonds of Union loan—
Continued.

Date due.	Amount of bonds.	Rates.	Interest paid.	Rate of premium.	Amount.
		<i>Per cent.</i>			
July 1, 1872	{ \$2,019,500 350,000	3 2½	\$60,580 8,750		
January 1, 1873	{ 1,695,000 350,000	3 2½	69,335 50,850 8,750	0.18829	\$9,588.34
July 1, 1873	{ 1,695,000 350,000	3 2½	59,600 50,850 8,750	.12189	7,224.84
January 1, 1874	{ 1,395,000 350,000	3 2½	59,600 41,850 8,750	.15513	9,245.75
July 1, 1874	{ 1,395,000 350,000	3 2½	50,600 41,850 8,750	.1038	5,252.28
January 1, 1875	{ 1,095,000 350,000	3 2½	50,600 32,850 8,750	.11062	5,597.37
			41,600 32,850 8,750	.1209	5,029.44
July 1, 1875	{ 1,095,000 350,000	3 2½	41,600	.17078	7,104.45
January 1, 1876	{ 675,000 350,000	3 2½	20,250 8,750		
			29,000	.13044	3,782.76
			20,250 8,750		
July 1, 1876	{ 675,000 350,000	3 2½	29,000	.12367	3,586.43
January 1, 1877	350,000	2½	8,750	.070547	617.29
July 1, 1877	350,000	2½	8,750	.05316	465.15
January 1, 1878	149,000	2½	3,725	.0276	102.81
July 1, 1878	149,000	2½	3,725	.007255	27.02
Amount of gold premium paid on interest					661,904.64

Amount of premium paid for gold with which to redeem Union loan bonds.

Date due.	Bonds redeemed.	Rate of premium.	Amount.
July 1, 1871	198,000	0.13091	\$25,920.18
July 1, 1872	324,500	.13829	44,875.11
July 1, 1873	300,000	.15513	46,539.00
July 1, 1874	300,000	.11062	33,186.00
July 1, 1875	420,000	.17078	71,727.60
July 1, 1876	675,000	.12367	83,477.25
July 1, 1877	201,000	.05316	10,685.16
July 1, 1878	149,000	.007255	1,081.00
Amount of gold premium paid on bonds			317,491.30
Amount of gold premium paid on interest			661,904.64
Total amount of gold premium paid			979,395.94

“UNION LOAN SINKING FUND.

“This fund was established and created by acts of the legislature approved May 20, 1861, and March 22, 1862, which provided that all scrip, certificates of debt, and money received from the United States on account of expenditures made pursuant to ‘An act to provide for the maintenance of the Union and the constitution’ (chap. 216,

laws of 1861), should be held and invested as a sinking fund, the principal of which should be applied to the redemption of the Union loan bonds or scrip when due. The same acts also provided that, commencing with the year 1863, there should be raised by taxation a sum equal to one-tenth of the difference between the total amount of bonds issued and the amount of money or securities held in the sinking fund. The act of March 22, 1862, further provided that * * * 'all moneys so received shall be invested in the scrip of the United States or in the scrip or certificates of debt of this commonwealth * * *.'

"In accordance with terms of the above-mentioned acts there was credited to the Union loan sinking fund during the year 1861 the sum of \$1,023,205.15, as shown by statement furnished, of which amount \$775,000 was received from the United States in September, 1861, as an advance payment on account of war claims, under act of July 27, 1861, and the balance from various sources, but principally from United States disbursing officers, in payment for subsistence, equipment, etc., furnished to the United States.

"During the year 1862 there was credited to this fund the sum of \$748,868.99, of which amount \$700,894.13 was on account of direct tax levied on the people of Massachusetts by act of Congress approved August 5, 1861, and which was assumed by the State by resolve of its legislature approved January 27, 1862. The balance credited to this fund in 1862 was received from various sources, but as in 1861 mostly from United States disbursing officers and from sales of ordnance and equipment to other States.

"By resolve of the State legislature approved April 30, 1862 (chap. 98, laws of 1862), \$700,894.13 was appropriated to pay the direct tax due to the United States and the treasurer was authorized to borrow that amount from the banks of the State and repay the same as soon as money was in the treasury for that purpose. It does not appear that any money was borrowed under this authority, for the reason that Congress by act approved May 13, 1862, authorized the offset of the direct tax against the unliquidated amount due the State on account of its war claims. The amount of this direct tax appears to have been levied and collected with other State taxes, and on December 31, 1862, was credited to the Union loan sinking fund, as a payment on account of the State's war claims against the United States.

"During the year 1862 Union loan bonds to the amount of \$1,012,500 were issued to this sinking fund in lieu of a like sum of money which appears to have been mostly expended by the State in the years 1861 and 1862, prior to the date said bonds were issued to the sinking fund.

"During the year 1863 there was credited to the sinking fund \$202,484.28, of which \$180,000 was money raised by State tax in accordance with the sinking fund acts, the balance being received from sales of property and payments by United States disbursing officers. It also appears from the information furnished that early in 1863 the money then in this fund was invested in United States bonds to the amount of \$739,000.

"During 1864 money received from State tax to the amount of \$162,500 was credited to this fund; also \$55.62 received from sale of old blankets.

"During 1865, \$309,088.95 received from the United States was credited to this fund.

"During 1866, \$621,435.53 received from the United States and \$116,000 from State tax was credited to this fund. Also Massachusetts war-loan scrip or bonds to the amount of \$1,429,000 was issued to this fund in lieu of a like amount of money used by the State.

"During the year 1867, \$41,950 received from State tax was credited to this fund.

"During 1868, \$670,509.67 was received from the United States (settlement No. 6280, of January 30, 1868) and credited to this fund. On June 20, 1868, there was transferred from this fund to the bounty loan sinking fund the sum of \$297,053.02, that being the amount then held by the Union loan sinking fund in excess of the face value of the Union loan bonds issued and for the redemption of which this sinking fund was created. The transfer of this surplus to the bounty loan sinking fund was authorized by act of the legislature approved April 30, 1868 (chap. 166, laws of 1868).

"It is not clear from the evidence furnished that all of the money credited to this sinking fund (other than that raised by State tax) was received from the United States, but it does appear from the settlements on file that the State acknowledged the receipt of \$166,007.44 from other sources, and which was credited on account of the claims filed under act of July 27, 1861, and thereby reducing the amount paid to the State under that act to that extent. It is assumed in computing this claim that the State officers followed the provisions of the act of the State legislature creating the Union loan sinking fund (ch. 216, laws of 1861), and paid into or credited to said fund only such money as was received from the United States on account of its war expenses and the amount raised by taxation as provided in said act.

"From October 20, 1868, to June 5, 1872, there was paid the State in various amounts the sum \$362,760.80, which, it appears from the certificate of the State treasurer dated April 28, 1903, was on receipt of the same paid or credited to the 'bounty loan,' 'war loan,' and 'Troy and Greenfield Railroad,' sinking funds, but the amount paid or credited to each fund is not stated.

"The act of July 27, 1861, under which this claim is settled, as construed by the United States Supreme Court and the Comptroller of the Treasury, is essentially a reimbursement act which does not authorize any payment to the State for interest as such, but only as a cost or expense necessarily incurred in aiding the United States to raise troops for the suppression of the rebellion.

"It has been held in the settlement of claims of other States where bonds were issued to raise money which was properly expended for the United States, and the amount so expended was refunded by the United States, that the money refunded should be used to cancel the bonds outstanding if such bonds could have been redeemed by their terms, and unless the bonds were actually redeemed they have been held to be constructively redeemed as of the date of the receipt of the payment from the United States.

"It has also been held by the Comptroller of the Treasury in the case of the State of Maine (9 Compt., 402) that if such bonds were not due or redeemable at the time payment was made to the State by the United States, that the State had a perfect right to use the money received for the payment or cancellation of its other State debts, and by so doing made no profit which would reduce the cost of bonds issued for the benefit of the United States.

"By analogy with the foregoing propositions it is held that where payments were made to a State by the United States as a reimbursement for war expenses and the bonds previously issued for such expenses could not by their terms be redeemed at that time, but the State actually did apply the money received to the future redemption of such bonds and in the meantime invested the money received from the United States in interest-bearing securities that the interest or profit to the State on such securities should be applied as an offset against the interest paid on bonds issued for the benefit of the United States. In other words, the profits on such investments reduce to that extent the cost to the State of the bonds which were issued for the benefit of the United States. This last proposition is applied in the settlement of this claim.

"From an examination of the statement furnished by the States, showing the transactions of the Union loan sinking fund, it is apparent that none of the money raised by State taxation and paid or credited to said fund was invested in interest-bearing securities, but was wholly used by the State for its own purposes, therefore all investments in this sinking fund which earned a profit were investments made with money received from the United States. Prior to March 1, 1869, all income received on investments made in the Union loan sinking fund were turned into the general fund of the State treasury, from which general fund was paid the interest on the Union loan bonds. Subsequent to March 1, 1869, the income of this sinking fund was transferred as fast as received to the 'bounty loan' sinking fund, 'war loan' sinking fund, and the 'Troy and Greenfield Railroad' sinking fund, and invested in those funds for the ultimate redemption of bonds which were issued for State purposes. The income so devoted to the payment of other State debts is considered not to have been a profit to the State, nor is the State considered to have made a profit on any money received from the United States which was credited to any other sinking fund and used for the redemption of any other State debt than the Union loan bonds, which were issued for the benefit of the United States.

"The statement furnished by the State treasurer under date of April 28, 1903, shows the total amount of income received from the Union loan sinking fund prior to March 1, 1869, was \$293,346.93, but as a large part of the income was received in gold, the value of the gold so received is computed at the same rate of premium as paid by the State for gold with which to pay the interest on the Union loan bonds.

"The amount of premium computed on that basis is as follows:

	Interest received.	Rate of premium.	Amount.
July 16, 1862	\$1,027.47	\$0.07216	\$74.14
January 6, 1863	608.00	.32706	197.21
July 8, 1863	22,170.00	.3706	8,428.56
August 3, 1863	573.00		
January 2, 1864	22,120.00	.4773	10,587.88
July 30, 1864	22,120.00	1.2863	28,452.96
January 3, 1865	22,120.00	1.2279	27,161.15
July 5, 1865	22,120.00	.42525	9,406.58

	Interest received.	Rate of premium.	Amount.
January 2, 1866	\$22, 120. 00	\$0. 4551	\$10, 066. 81
June 30, 1866	22, 120. 00	. 53475	11, 828. 67
January 8, 1867	22, 120. 00	. 36785	8, 136. 84
July 1, 1867	22, 120. 00	. 38255	8, 462. 01
January 2, 1868	22, 120. 00	. 33815	7, 479. 88
July 1, 1868	22, 120. 00	. 40108	8, 871. 89
January 1, 1869	22, 120. 00	. 34982	7, 726. 96
Total premium			146, 851. 49
Add amount received as per treasurer's statement			298, 346. 98
Total profit on investments in the Union loan sinking fund			440, 198. 42

"This amount is considered to have been a profit to the State on money received from the United States, and as such to be a proper offset against the interest paid by the State on bonds issued for the benefit of the United States.

"The printed annual reports of the auditor of accounts of the Commonwealth of Massachusetts for the years 1861 and 1862 show the receipt by the State of accrued interest and premium on the sale of the Union loan bonds, as follows:

On the 6 per cent Union loan of 1861, premium	\$18, 261. 58
On the 6 per cent Union loan of 1861, accrued interest	21, 189. 56
On the 5 per cent Union loan of 1862, premium	5, 250. 00
On the 5 per cent Union loan of 1862, accrued interest	432. 14
Total	45, 133. 28

"The amount of accrued interest received on the 6 per cent bonds sold in 1861, as given above, does not agree with the detailed schedules furnished by the State, but as it is apparent from an examination of these schedules that a portion of the bonds on which the State should have received accrued interest have been omitted, it is assumed that the printed report of the State auditor is correct as showing the actual amount of accrued interest received. The full amount of this premium and accrued interest is considered to be a proper offset against the interest paid on the Union loan bonds.

"The amount claimed as interest paid on bonds issued for purposes of coast defense, together with the amount claimed for premium on gold with which to pay the interest on said bonds, is disallowed, in accordance with decision of the Comptroller of the Treasury, dated February 4, 1903, the expenses for which these bonds were issued not properly coming within the provisions of the act of July 27, 1861.

"RECAPITULATION.

"Interest on short-time loans	\$25, 988. 28
"Interest on Union loan bonds	2, 013, 220. 00
"Cost of engraving, printing, and advertising bonds	3, 185. 52
"Cost of premium on gold with which to pay interest on Union loan bonds	661, 904. 64
"Cost of premium on gold with which to redeem Union loan bonds	317, 491. 30
	3, 021, 789. 74
"Deductions:	
"Premium and accrued interest received on Union loan bonds	\$45, 133. 28
"Profit on investments in the Union loan sinking fund	440, 198. 42
	485, 331. 70

"Amount allowed

2, 536, 458. 04"

The total amount of bonds actually issued by the State of Massachusetts in order to secure funds for the purpose of aiding the United States was \$2,567,500. The entire amount realized from these bonds appears to have been expended for the benefit of the United States. This excludes the bonds issued by the State to its sinking funds which were under the control of the legislature. Said nominal sales being merely bookkeeping transactions and not providing the State with any available funds, do not properly enter into the account between the State and the United States.

The said bonds were authorized by acts of the State legislature of May 21, 1861, and April 25, 1862.

Under the provisions of the act of the State legislature of May 21, 1861 (chap. 216), \$2,217,500 of bonds were issued, bearing date July 1, 1861. These were sold between the said date and October 31, 1861. The interest was payable semiannually at the rate of 6 per cent per annum. The bonds were payable at various dates from July 1, 1871, to July 1, 1876. The bonds were redeemed at maturity. The interest paid on these bonds was \$1,743,270. From this amount should be deducted \$21,189.56, received by the State as accrued interest at the time of the sale of these bonds, which reduces the actual interest cost on them to \$1,722,080.44. The State also received premium on the sale of these bonds amounting to \$18,261.58, which further reduces the cost to \$1,703,818.86.

Under the provisions of the act of the State legislature of April 25, 1862 (chap. 147), \$350,000 of bonds were issued, bearing date July 1, 1862, and were payable July 1, 1877, and July 1, 1878. The bonds were redeemed at maturity. The interest was payable semiannually; the interest paid was \$269,950. From this amount should be deducted \$432.14 received by the State as accrued interest at the time of the sale of these bonds, which reduces the actual interest cost on these bonds to \$269,517.86. The State also received a premium on the sale of these bonds amounting to \$5,250, which further reduces the cost to \$264,267.86.

The interest, accrued interest, and premium as stated above agree with the amounts found by the Auditor on the same items, though stated in a different form.

The total amount expended by the State for engraving plates, printing, and advertising in connection with the above loans, as shown by the evidence filed, was \$3,175.52. This is \$10 less than the amount found by the Auditor. The difference results from an error in addition shown on filed copy of voucher in favor of the American Bank Note Company for \$1,617.02, the items aggregating but \$1,607.02.

The amount allowed by the Auditor as interest on short-time notes, namely, \$25,988.28, is correct and in accordance with the evidence filed. The proceeds of these short-time notes appear to have been expended for the benefit of the United States before the receipt of the proceeds from the bond issue. The expenditure appears to be a proper charge against the United States as a part of the costs, charges, and expenses of aiding the United States in suppressing the rebellion. These short-time or emergency notes were issued from May 7, 1861, to January 4, 1862. All were paid paid before the end of October, 1861, except \$310,000 paid in July and August, 1862. The aggregate amount issued was \$2,316,000. The loans represented money obtained for military expenditures or for the redemption of matured notes the proceeds of which had been thus expended. These emergency notes were merged into or finally redeemed with the proceeds of the first bond issue, except the \$310,000 above noted, which was merged into the second bond issue, *supra*.

The total amount to which the State is entitled as reimbursement on the items thus far considered is as follows:

Interest on short-time notes.....		\$25,988.28
Interest on bonds of 1861.....	\$1,722,080.44	
Less premium.....	18,261.58	
		1,703,818.86
Interest on bonds of 1862.....	269,517.86	
Less premium.....	5,250.00	
		264,267.86
Cost of engraving, printing, and advertising in connection with the issue of bonds.....		3,175.52
Total		1,997,250.52

GOLD PREMIUM.

The State claims reimbursement for amount paid for gold with which to pay the principal and interest on the bonds above referred to. The Auditor has allowed as the cost of the premium on gold with which to pay the interest on said bonds \$661,904.64, and as the cost of the premium on gold with which to redeem said bonds at maturity \$317,491.30.

The provisions of the act of the State legislature of May 21, 1861, *supra*, under which the bonds were issued, are contained in sections 5 and 6 of said act, as follows:

"SEC. 5. For the purpose of meeting the expenses incurred and to be incurred under this act and any act to provide for the public defense, or for the discipline and instruction of a military force in the third section of this act mentioned, there shall be created a fund which shall be called the Union fund; and the treasurer of

the commonwealth is hereby authorized to issue scrip or certificates of debt, in the name and on behalf of the commonwealth, and under his signature and the seal of the commonwealth, to an amount not exceeding three millions of dollars; and the proceeds of such scrip so issued shall be passed to the credit of said Union fund, and the same is hereby appropriated for the purpose of paying all liabilities incurred or to be incurred under this act and the acts herein mentioned; and the governor is authorized from time to time to draw his warrant upon the treasurer for so much as may be needed.

"Sec. 6. Such scrip or certificates of debt shall bear interest not exceeding six per cent per annum, payable semiannually on the first days of January and July in each year, and may be issued at such times and in pieces of such amount as shall be fixed by the governor and council. All such scrip issued in pieces of five hundred dollars or over shall have interest warrants attached thereto, signed by the treasurer. Scrip for smaller sums shall be issued without such warrants, but bearing interest, payable semiannually on presentment to the treasurer. Such scrip or certificates of debt shall be redeemable in not less than ten nor more than thirty years from the first day of July, A. D. eighteen hundred and sixty-one, and not more than five hundred thousand dollars shall be redeemable in any one year; and the same shall be countersigned by the governor and be deemed a pledge of the faith and credit of the commonwealth. The treasurer may from time to time dispose of so much of the same as shall be required, under the direction of the governor and council, and for that purpose shall advertise for proposals for so much of the same as may be needed, bearing interest at a rate not exceeding six per cent per annum."

There appears to have been no specific direction by the terms of the above act or any other State law, or any stipulation in the bonds issued under the act of May 21, 1861, supra, as to the kind of money with which the principal and interest of said bonds should be paid. But subsequent to the execution of the contracts with the several purchasers of said bonds (all having been issued prior to October 31, 1861) the State legislature, by act of March 22, 1862 (ch. 32), provided for the payment in coin of the interest and principal of Massachusetts scrip or bonds as follows:

"SECTION 1. The interest and principal of all scrip or bonds of the Commonwealth of Massachusetts, which have been or may hereafter be issued, shall, when due, be paid in gold or silver coin.

"Sec. 2. Whenever the interest or principal of any of the scrip or bonds of the Commonwealth shall become due the treasurer and receiver-general shall procure coin for the payment of the same, and the governor shall draw his warrant for such sum as may be found necessary to procure such coin, to be paid out of any moneys then in the treasury of the Commonwealth.

"Sec. 3. This act shall take effect upon its passage."

Previous to the passage of the act just quoted Congress had by act of February 25, 1862 (12 Stat. L., 345), provided that Treasury notes should be lawful money and a legal tender in payment of all debts public and private, within the United States, except duties on imports and interest on the public debt. This act and others of like import are known as the legal-tender acts. These acts were held by the Supreme Court to be constitutional as to contracts made before their passage and valid and applicable to transactions after their passage. (See *Knox v. Lee*, 11 Wall., 682; 12 Wall., 451, overruling *Hepburn v. Griswold*, 8 Wall., 603; also *Juilliard v. Greenman*, 110 U. S., 421.)

Mr. Justice Strong, in delivering the opinion of the court in the case of *Knox v. Lee*, supra, said:

"The obligation of a contract to pay money is to pay that which the law shall recognize as money when the payment is to be made." * * * (12 Wall., 546.)

"Every contract for the payment of money simply is necessarily subject to the constitutional power of the Government over the currency, whatever that power may be, and the obligation of the parties is therefore assumed with reference to that power." * * *

"Contracts for the payment of money are subject to the authority of Congress, at least so far as relates to the means of payment. They are engagements to pay with lawful money of the United States, and Congress is empowered to regulate that money. It can not, therefore, be maintained that the legal-tender acts impaired the obligation of contracts." (Id., 549.)

The decisions hold that contracts for the payment of money may be satisfied by the payment of legal-tender notes.

The extent to which the legal-tender acts were applicable may be tersely expressed in the language of the court in the case of *Juilliard v. Greenman*, supra, as follows:

"A contract to pay a certain sum in money, without any stipulation as to the kind of money in which it shall be paid, may always be satisfied by payment of that sum

in any currency which is lawful money at the place and time at which payment is to be made." (110 U. S., 449.)

The Supreme Court has, however, specifically decided that a debtor could pay his debt with legal-tender notes only when his contract did not specify that payment should be made with coin; in other words, that a debtor might have defined the medium of payment as well as have promised to pay. (See *Trebilcock v. Wilson*, 12 Wall., 687; *Maryland v. Railroad Company*, 22 Wall., 105.)

The bonds of the State of Massachusetts issued under the provisions of the act of April 25, 1862, *supra*, came also within the provisions of the act of March 2, 1862, *supra*, providing for payment of principal and interest in coin. As to these bonds there was, therefore, a legal contract between the State and the holders of said bonds when issued for the payment of principal and interest in coin, and the State having paid the same in accordance with the said contract, is entitled to reimbursement thereof as a part of the necessary cost in securing the money expended for the benefit of the United States, in accordance with the decision of the Supreme Court in the New York case (560 U. S., 598).

The question as to the payment of gold premium as a reimbursement under the act of July 27, 1861, *supra*, has not heretofore presented itself except in the case of the State of Pennsylvania, which State was allowed premium paid for gold for interest on bonds issued under a statute requiring specie payment of all interest due from the State. (See my decision in said case dated December 17, 1903; 10 Comp. Dec., 482.)

In accordance with the decisions of the Supreme Court, *supra*, the principal and interest on the bonds issued under the provisions of the act of May 21, 1861, *supra*, could have been satisfied by the payment in legal-tender notes, as the medium of payment had not been defined either by statute or in the bonds themselves.

The State having paid the said interest and principal in gold, incurring additional expense therefor, in accordance with a statute enacted after the issue of the bonds and after the contractual rights of the bondholders had been fixed and determined, the question arises whether reimbursement for the additional cost (or premium) of said gold is a proper legal charge against the United States.

The act of Congress approved July 27, 1861, providing for the refundment to the States of expenses properly incurred in aiding to suppress the rebellion gave to all the States actual notice of the existence of principal and agent in the matter of transactions under the above act, which continued to exist during the period while the State was incurring obligations for military expenses.

Under ordinary conditions, where the State acts for itself and not as an agent, it would be immaterial should the State add to its own obligation in the payment or fulfillment of its contracts, the State having the sovereign right to appropriate its funds in any manner in conformity with its constitution. But in the case under consideration, the State having acted as agent for the United States, with the expectation of being made whole by its principal, it is material to the United States whether the expenses for which the State claims reimbursement were incurred by increasing its legal obligations on preexisting contracts.

The act of the legislature of March 22, 1862, is shown to have been subsequent to the sale of all the bonds issued under the authority of the act of May 21, 1861. It is therefore as to these bonds and as it affects the Government retroactive, having the effect of changing and enlarging the burden of payment under obligation of the contract previously entered into with the bondholders.

The payment of the bondholders in gold when legal tender was all that could have been legally demanded was as to the greater value of the gold without consideration on the part of the bondholders, and therefore a mere gratuity.

The decision of the Supreme Court in holding the several "legal-tender acts" to be constitutional, as well as that they applied to contracts made before as well as after their passage, leaves no doubt that the interest and principal of these bonds could have been liquidated with any legal-tender money.

The action of the State in expending money for gold with which to pay the principal and interest of these bonds was therefore entirely voluntary and one which the State under its contracts with its bondholders was not legally bound to pay.

It is asserted by the State that it was in pursuance of a general understanding that such a law would be passed and that the principal and interest on these bonds would be paid in coin that the State was enabled to sell them at a premium when the bonds of the Government were selling at a considerable discount. I have no doubt but that this contention is true, and it is a strong appeal to the equitable powers of Congress, but should and can have no weight with the accounting officers, who are not authorized to allow equitable claims. A claim to be allowed by the accounting officers must be such a claim as might be the foundation of a legal cause of action.

Therefore all items for gold premium in the payment of principal and interest on the bonds issued under the act of May 21, 1861, do not come within the scope of "expenses properly incurred" as contemplated by the act of Congress of July 27, 1861, *supra*.

The amount allowed by the Auditor on these items should therefore be disallowed, amounting to \$886,389.88.

The amount expended by the State for premium on gold with which to pay interest and principal on bonds issued under the act of April 25, 1862, should be allowed for reasons stated above. The basis for the determination of this premium as adopted by the Auditor, *supra*, namely, the average cost of gold purchased by the State near the dates on which the interest fell due, appears to be as nearly correct as any method that could be adopted.

The amount of premium paid by the State on these bonds is, in accordance with said method, as follows:

Premium paid for gold for payment of interest on bonds issued under act of April 25, 1862.

[Rate, 5 per cent per annum.]

Date due.	Amount of bonds.	Interest paid.	Rate of premium.	Amount of premium.
January 1, 1863.....	\$350,000	\$8,750	\$0.32705	\$2,861.69
July 1, 1863.....	350,000	8,750	.3706	3,242.75
January 1, 1864.....	350,000	8,750	.4773	4,176.38
July 1, 1864.....	350,000	8,750	1.2863	11,255.13
January 1, 1865.....	350,000	8,750	1.2279	10,744.13
July 1, 1865.....	350,000	8,750	.42525	3,720.94
January 1, 1866.....	350,000	8,750	.4551	3,982.13
July 1, 1866.....	350,000	8,750	.53475	4,679.06
January 1, 1867.....	350,000	8,750	.36785	3,218.69
July 1, 1867.....	350,000	8,750	.38255	3,347.31
January 1, 1868.....	350,000	8,750	.33815	2,958.81
July 1, 1868.....	350,000	8,750	.40108	3,509.45
January 1, 1869.....	350,000	8,750	.34932	3,066.55
July 1, 1869.....	350,000	8,750	.37305	3,264.19
January 1, 1870.....	350,000	8,750	.20453	1,789.64
July 1, 1870.....	350,000	8,750	.11976	1,047.90
January 1, 1871.....	350,000	8,750	.10762	941.68
July 1, 1871.....	350,000	8,750	.13091	1,145.46
January 1, 1872.....	350,000	8,750	.09192	804.30
July 1, 1872.....	350,000	8,750	.13829	1,210.04
January 1, 1873.....	350,000	8,750	.12139	1,062.16
July 1, 1873.....	350,000	8,750	.15513	1,357.39
January 1, 1874.....	350,000	8,750	.1038	908.25
July 1, 1874.....	350,000	8,750	.11062	967.93
January 1, 1875.....	350,000	8,750	.1209	1,057.88
July 1, 1875.....	350,000	8,750	.17078	1,494.33
January 1, 1876.....	350,000	8,750	.13044	1,141.35
July 1, 1876.....	350,000	8,750	.12367	1,082.11
January 1, 1877.....	350,000	8,750	.070547	617.29
July 1, 1877.....	350,000	8,750	.05316	465.15
January 1, 1878.....	149,000	3,725	.0276	102.81
July 1, 1878.....	149,000	3,725	.007255	27.02
Total premium for interest.....				81,239.90

Premium paid for gold for payment of principal of bonds issued under act of April 25, 1862.

July 1, 1877, \$201,000, at \$0.05316.....	\$10,685.16
July 1, 1878, \$149,000, at \$0.007255.....	1,081.00

Total premium for principal.....	11,766.16
Total premium for interest.....	81,239.90
Total premium allowed.....	93,006.06

The amount allowed by the Auditor as premium on gold for payments of interest and principal on bonds issued under act of May 21, 1861, should be disallowed, namely:

Premium for interest.....	\$580,664.74
Premium for principal.....	305,725.14

Total premium to be disallowed..... 886,389.88

CLAIM FOR INTEREST AND GOLD PREMIUM ON COAST-DEFENSE BONDS.

The State claims \$209,885.61, reimbursement of interest paid (twenty years at 5 per cent) on \$209,885.61 of coast-defense bonds, and in addition thereto the cost of the gold with which to pay said interest.

It appears that under the provisions of an act of the State legislature in relation to the coast defense of Massachusetts, approved March 30, 1863 (ch. 118), the State issued \$888,000 of 5 per cent bonds dated July 1 and October 1, 1863, and January 1, 1864, all payable July 1, 1883. It is also shown that certain accrued interest and premium was received at the time the said bonds were issued, and also that a portion of the said bonds came into the possession of certain State sinking funds before maturity.

The Auditor has disallowed this claim for interest and gold premium on the coast-defense bonds in accordance with my decision of February 4, 1903.

The said decision is hereby affirmed. The amount paid by the State in order to secure the funds expended and allowed for coast defense can not be considered as a claim for reimbursement under the act of July 27, 1861, *supra*. The claim of the State on account of expenses incurred for coast defense having been settled in accordance with a special act of Congress no additional allowance therefor can be made by the accounting officers unless authorized by Congress. The action of the Auditor in disallowing this claim is therefore affirmed.

INCREMENT OR INCOME FROM STATE INVESTMENTS OF MONEYS RECEIVED FROM THE UNITED STATES.

In the settlements of the various State cases for reimbursement of expenses under the act of July 27, 1861 (12 Stat. L., 276), in accordance with the decision of the Supreme Court in the New York case January 6, 1896 (160 U. S., 598), I have held that where a State obligated itself to pay interest on money borrowed and expended for the benefit of the United States the payment of the principal by the United States did not release the United States from paying the interest which the State necessarily paid under her obligations.

Where the State's bonds were by their terms redeemable at pleasure, the receipt of the money from the United States has been treated as a constructive redemption of bonds of an equal amount.

In certain cases the State, having received money from the United States, was enabled therewith to redeem or purchase bonds before maturity. This operated to reduce the interest charge, as no more interest was allowed than was actually paid by the State.

But where a State has received money from the United States and had no outstanding bonds which she could purchase or redeem I have refused to charge the State interest on said money, holding that it could not be held to be the duty of the State to invest the said money, and though she may have used the money for her own State purposes she should not be charged with interest thereon.

In the case of Massachusetts we have a different problem from any heretofore presented. The State received money from the United States in payment of her war debt, which she put in a sinking fund for the purpose of meeting the payment of her bonds at maturity. She invested this money and received an increment therefor. Is she accountable for this increment?

It may be argued that the money received by the State from the United States in payment of her debt became the State's money and that thereafter it is no concern of the United States what the State did with it. This may be true as a general proposition, but in the reimbursement to the State of the costs, charges, and expenses incurred in aiding the United States, as interpreted by the Supreme Court and as applied by the accounting officers since the decision of the Supreme Court, the dominant idea is that the State shall be made whole for her expenditures in aiding the United States, but may not make a profit on the transaction.

To illustrate: If a State having no available funds borrows \$1,000,000 and expends the same for the benefit of the United States, the State must be repaid or reimbursed by the United States the whole amount of the principal expended and the whole amount of interest necessarily paid to secure said principal sum. If the State, in the exercise of her discretion, had issued 20-year bonds in order to secure the money to expend for the United States, the reimbursement by the United States of the principal at the end of five years would not stop the interest for the remaining fifteen years unless the State was able to purchase or redeem the said bonds, and the State would not be made whole without a reimbursement of the interest necessarily expended on her loan. But if the State invests the money received in payment of the principal and receives interest therefrom sufficient to meet the interest on her

bonds as said interest becomes due she is at no cost from that time, the interest received being equal to the interest paid. To allow the State the full amount of interest paid in such a case until the maturity of the bonds and allow her the income she receives on the money received by her in payment of the obligation for which said bonds were issued would be to allow her a profit by the transaction.

In the case just mentioned the income on the million investment for fifteen years, at 6 per cent, would give the State a profit of \$900,000. If the State has a right to this profit it was decidedly to her advantage to loan the money and not make any effort to redeem the bonds.

If a part of the principal is received and invested the income therefrom would meet a part of the interest due on her bonds, and to such an extent would reduce the cost of the loan.

I think it proper, therefore, as the State is allowed credit for the full amount of interest paid, that where the State received from the United States a payment on the principal of her debt, which payment might have been applicable to the redemption of bonds had the bonds by their terms been redeemable at that time, the income received from the investment of such moneys should be considered as an offset to the interest charge, the cost to the State being reduced by such amount. This in effect makes the State whole for the costs incurred in aiding the United States.

Certain moneys received by the State of Massachusetts from the United States on account of the war debt were invested in State bonds; this was in effect an application to a State debt operating as a virtual redemption of said debt. Following the principles upon which other State cases have been settled, the State is not held to any account for the interest saved to herself by the cancellation of a State debt. Such items will not be mentioned herein.

We find that on February 17, 1868, the State of Massachusetts received from the United States on account of expenditures during the rebellion \$370,509.67, and on April 9, 1868, \$300,000, making a total at this time of \$670,509.67.

Shortly after the receipt of this money the State invested therefrom \$418,487, which was repaid at various dates. The income derived from investing the said amount, determined from the data furnished showing the dates and amounts of the various investments, the rate of interest, and the time of repayment, was \$179,305.51.

The balance of the \$670,509.67, *supra*, amounting to \$252,022.67, was, with other money in the union loan sinking fund, on July 20, 1868, transferred to the bounty loan sinking fund.

On and after July 20, 1868, the moneys received from the United States in payment of the war debt were transferred to the bounty loan sinking fund as received and were commingled with the moneys in the said bounty loan sinking fund and invested from time to time in interest-bearing securities.

The amounts received from the United States and transferred to the said fund are as follows:

July 20, 1868, balance of payment of April 9, 1868, as shown above....	\$252, 022. 67
October 27, 1868.....	205, 999. 14
February 8, 1869.....	28, 790. 97
August 14, 1869.....	55, 604. 96
March 31, 1870.....	132, 990. 32
June 18, 1872.....	79, 375. 41
Total.....	754, 783. 47

It is shown by the evidence that the bounty loan sinking fund on July 20, 1868, amounted to \$1,544,522.36, and that certain additions were made to it from time to time. The total income from the fund from July 20, 1868, to July 1, 1878, is shown. The earnings derived from the money received from the United States, which were placed in this fund, are determined upon a proportionate basis. This is deemed the fairest method of arriving at the result, it being impossible to determine accurately what funds were used to purchase any particular interest-bearing security, and consequently the increment derived from any particular money. I think the strict rule that would be applied to an individual, who as an agent commingles his own funds with those of his principal, should not be applied here.

The increment or income received by the State being considered merely as an offset to the interest charge by lessening the cost thereof, and not as a charge against the State, I have disregarded any income received by the State in excess of the interest allowed the State for the same time.

From an analysis of the evidence furnished by the State it appears that the State received, in accordance with the principles herein indicated, through its bounty-loan sinking fund, upon moneys paid by the United States upon the war debt, while bonds issued for said purpose were still outstanding to a like or greater amount, the

interest upon which was charged to the United States, the sum of \$290,210.22; adding this amount to the \$179,305.51, supra, gives \$478,515.73 as the total income or increment received by the State on moneys received from the United States. The costs incurred by the State on behalf of the United States should therefore be reduced by said amount.

The Auditor has charged the State or offset against the interest account the income or increment received by the State from investments of money from the Union loan sinking fund, and for the time only with which the said sinking fund was credited with the said income. As certain of the income was received in gold the Auditor also added the premium value of said gold income to the income received. The amount thus charged or offset against the State is as follows:

Income received.....	\$293,346.93
Premium on gold income.....	146,851.49
Total.....	440,198.42

The amount of the income charged by the Auditor, \$293,346.93, is the amount shown by the evidence filed to have been received as income of the Union loan sinking fund from July 16, 1862, to March 1, 1869, the entire income of the Union loan sinking fund being transferred after March 1, 1869, to the other State sinking funds.

The said income was derived as follows:

Interest and premium on \$20,100, United States Treasury notes.....	\$7,734.61
Interest on \$739,000, United States bonds.....	265,490.00
Interest on investments of money received from United States in payment of war debt.....	20,122.32
Total.....	293,346.93

Of the amount charged the State by the Auditor on account of premium on gold income, \$146,367.79 was charged on account of interest received on the \$739,000 United States bonds, supra, and the remainder, \$483.70, on account of interest received on the \$20,100 United States Treasury notes, supra.

The \$739,000 United States bonds were purchased in March, 1863; all were 6 per cent bonds, except \$10,000, which drew 5 per cent. The \$10,000 5 per cent bonds were sold in January, 1871, and the 6 per cent bonds were sold in April and May, 1873. The total interest received by the State on these bonds between the date of purchase and sale was therefore \$441,400.

If it is proper to charge or offset against the State the interest on these bonds, I see no reason why the full amount received should not be charged.

But I think the Auditor has adopted a wrong theory in regard to these items of charge or offset. The mere fact that the State put money in a sinking fund for the purpose of redeeming bonds does not give the United States the right to offset the income received therefrom against expenditure, for interest, etc. The correct theory is, as set forth above, that the profit received by the State on moneys advanced by the United States in payment of the war debt should be offset against the interest charged and paid by the State, because the costs to the State are reduced by the amount of profit received.

The \$20,100 United States Treasury notes were received by the State from certain sales made in 1861 and do not appear to have entered into the account between the State and the United States. The income from these notes is not therefore deemed a proper matter of offset against the interest paid by the State on her war bonds.

The \$739,000 United States bonds were purchased principally from the money collected by the State on account of the United States direct tax (act of August 5, 1861, 12 Stat. L., 294), which tax had been assumed by the State, and when collected was, on December 31, 1862, transferred to the Union loan sinking fund. The amount of the tax was \$700,894.13. The remainder of the money was derived from various sources, but does not appear to have entered into the account between the State and the United States; the income therefrom is therefore not deemed a proper matter of offset. The question is presented whether the State is to be charged with the income on the direct tax money collected from her citizens and invested in United States bonds. This tax was collected and invested by the State after her bonds were issued and negotiated, and was in no proper sense, in my judgment, moneys paid her by the United States. Hence under the principle that a State should account in these settlements for any increment that she received from an investment of money paid her by the Government, and which could not be used in the taking up of her outstanding war bonds but could have been used in the payment of the interest thereon as it accrued, the State is not properly chargeable with interest received on an invest-

ment made with said direct tax collection, for the reason assigned that such funds were not paid her by the United States.

The State of Massachusetts assumed this direct tax and submitted to a credit on her claims against the Government for reimbursement, in the amount of the tax so assumed. If, however, the Auditor was correct in charging the State with the increment received, because of the investment so made of this direct tax so collected by the State, he should have charged the State with all the increment so received while said amount was invested and before the maturity of her bonds. He did not do this, but only charged the State with the increment so received, while used as an investment of the Union loan sinking fund—that is, until March 1, 1869. After this date the State continued to receive an income until May, 1873, said income being transferred as fast as received to other State sinking funds. The total income received by the State on the investment of the \$700,894.13, the direct tax money, from March, 1863, to May, 1873, was therefore \$420,536.48, instead of \$252,321.89, the amount charged by the Auditor. These amounts do not include premium on interest or on sale of bonds.

No charge is made to the State in this revision on account of any increment received because of the investment by the State of said direct tax, for the reasons above given. The amount charged by the Auditor as interest on investments of money received from the United States is included in the amount offset against the State as above set forth.

Amount of income offset against interest by Auditor.....	\$440, 198. 42
Amount of income offset against interest in this Office	478, 515. 73

Difference	38, 317. 31
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The balance due the State of Massachusetts upon the case under consideration is therefore as follows:

Interest paid on short-time notes	\$25, 988. 28
Interest paid on first bond issue (see p. 12).....	\$1, 722, 080. 44
Less premium received on sale of bonds.....	18, 261. 58
	1, 703, 818. 86
Interest paid on second bond issue (see p. 12).....	269, 517. 86
Less premium received on sale of bonds.....	5, 250. 00
	264, 267. 86
Amount paid for engraving plates, printing, and advertising.....	3, 175. 52
Cost of premium on gold for payment of principal and interest on second bond issue	93, 006. 06
	2, 090, 256. 58
Deduct income received by State as offset against interest account.....	478, 515. 73
Amount due the State	1, 611, 740. 85
Amount allowed by Auditor	2, 536, 458. 04
Difference	924, 717. 19

A certificate of differences is this day made accordingly, and all the papers pertaining to the account transmitted to the Auditor for the War Department.

Respectfully,

R. J. TRACEWELL, *Comptroller*.

Mr. SULLIVAN. Mr. Chairman and gentlemen, the claim is what is called the Massachusetts war claim; and out of a great number of items one only is selected for presentation this morning, namely, that item of \$886,389.88, which the State of Massachusetts paid as a premium upon the gold to redeem its bonds, principal and interest, issued for the purpose of equipping, clothing, and transporting soldiers to serve in the war of the rebellion.

The CHAIRMAN. Now, as I understand, that is the only difference?

Mr. SULLIVAN. No; the difference, Mr. Chairman, between the findings of the Auditor and the Comptroller is \$924,717.19, and that is

made up of three items. One is the item of premium paid on gold of 886,000 odd dollars. The other is 38,000 odd dollars, which I do not question. I accept the report of the Comptroller on that. And the other is \$10, a mere clerical error in bookkeeping.

The CHAIRMAN. So that what you care to discuss is the \$886,000?

Mr. SULLIVAN. Yes, sir. That is the amount paid by the State of Massachusetts as the premium on gold purchased to redeem these bonds issued to equip these soldiers and help to preserve the Union.

The State of Massachusetts passed a statute in 1861 and authorized the issue of \$3,000,000 of bonds. That statute did not provide for the payment of any particular kind of money. No money was mentioned. The lawful money current in Massachusetts and elsewhere throughout the Union in 1861 was gold and silver coin, and paper issued upon gold and silver coin. In 1862—February, 1862—Congress passed the legal-tender acts, which made irredeemable paper money a legal tender for all debts except for payment of interest on bonds of the United States and for imports. In March, 1862, one month after the passage of the legal-tender acts, the State of Massachusetts passed an act which provided that the principal and interest of all scrip or bonds previously issued by the State, or hereafter to be issued, should be paid in gold or silver coin. Now the Comptroller has made his finding.

The CHAIRMAN. Let me ask you, right there: How long after the issue of these bonds was the enactment of that statute?

Mr. SULLIVAN. Substantially a year.

The Comptroller has rejected the claim of Massachusetts for payment of a premium on gold on this ground: That the act of Massachusetts of 1861, authorizing the issue of \$3,000,000 of bonds, not having specified that these bonds, principal and interest, were to be redeemed in gold or silver coin, and the bonds themselves containing no stipulation as to the mode of payment, and, further, as there was no law of the Commonwealth of Massachusetts requiring that the payment be made in any particular kind of money, therefore the contract should be read in the light of the legal tender acts, as interpreted by the decision in the cases of *Knox v. Lee* and *Parker v. Davis*, which overruled *Hepburn v. Griswold*.

That is, the contract would be made with reference to that act, and the money to be paid would be money current at the time the contract matured and became due, and that therefore the rights of the bondholders and the State of Massachusetts became fixed as of the date of the passage of the statute; that the acts of the legislature of Massachusetts after the passage of the legal-tender act could not enlarge the obligation of Massachusetts to its bondholders, and therefore could not enlarge the obligations of the United States to the Commonwealth of Massachusetts; that the payment of premium for gold therefore was a gratuity by the State of Massachusetts which the United States would not be called upon to reimburse her for.

That, I must confess, is a very plausible claim. But I think the point that is overlooked by the Comptroller in the case is this: What this committee and Congress has considered is not what kind of currency Massachusetts might have discharged her obligations with—how cheaply she could have got rid of her obligations by paying in a depreciated currency—but whether Massachusetts had the lawful right to pay in the kind of currency which she did pay in—whether she was authorized by her contract, under then existing law of the United

States and under State law, to discharge her obligations by paying gold. If she had the legal right to pay gold, even if she might have escaped her obligations by paying in something else, then the claim of Massachusetts for paying this gold premium is a valid one.

Mr. UNDERWOOD. What was the date of the issue of those bonds?

Mr. SULLIVAN. They were issued prior to the passage of the legal-tender act.

Mr. UNDERWOOD. Sometime in 1861?

Mr. SULLIVAN. Yes; in 1861 and in 1862, prior to that act of Congress.

Mr. UNDERWOOD. What was the life of the bonds?

Mr. SULLIVAN. I think they ran until 1878. They were redeemable in from ten to thirty years; but as a matter of fact none were issued, I believe, that were redeemed later than 1878.

Mr. UNDERWOOD. Have you got a statement as to when the bonds were redeemed?

Mr. SULLIVAN. Yes, sir; It is all in the Auditor's statement; and the report is so voluminous that I thought I would try to select out of it the one single question to which the committee would have to address itself. There are two reports, one by the Auditor and one by the Comptroller, which contain a mass of matter which can not be read in less than half a day, or digested in less than three days.

I have stated, first, the claim of the Comptroller, and I think I have stated it as fully as he has in his own statement; and right there, let me say, there is no precedent against this claim of Massachusetts, either in the Supreme Court of the United States or in any State, so far as I am aware of, and so far as the Comptroller, with whom I have talked, is aware of; nor is there any precedent against us in the practice that has been adopted in the settlement of these claims against the United States. The question is a novel one, so far as I am aware. No State made any claim for premium for gold except the State of Pennsylvania, and in that case this precise question did not arise, because that gold was purchased under a statute which authorized the issue of bonds payable in gold or silver coin, and there is no question that the United States should reimburse the State for money paid under such terms. So that this is the first case in which it has arisen so far as I know.

Now, the contract between Massachusetts and her bondholders, while it did not stipulate expressly for payment in gold or silver coin, was understood on the part of the officers of the State, or the purchasers of the bonds and the people generally, to be a contract for payment of the same kind of money as was advanced to the State to be advanced to the United States. It was the only lawful money current at that time. It was the only money that the parties had in contemplation. They could not have foreseen the passage of the legal-tender act. No one contemplated it at that time and therefore it would be doing violence to the intention of the parties to the contract, namely, the State of Massachusetts and her bondholders, to compel the bondholders to accept payment in a depreciated currency when they had no reason to believe that such a currency would ever be offered in payment. They paid in gold and silver coin, and they expected, in the cant phrase, to be paid back "in their own coin."

Now, after the legal-tender act was passed, in February, 1862, Massachusetts passed an act in March—a month later—providing that all script and bonds should be paid back, principal and interest, in

gold and silver coin—all bonds previously issued or hereafter to be issued. Now, that statute could not enlarge the obligations of Massachusetts to its bondholders on bonds issued under prior statutes. Of course no one claims that it does that. All that has ever been asserted concerning that latter statute of Massachusetts is that it was a declaration in solemn form of the intention of Massachusetts, declared in the previous statute—that is, of 1862.

The United States had declared, in the legal-tender act, that this currency could be paid for any debt, except interest upon its own bonds and notes and except upon imports. The United States had, therefore, declared that its bondholders should get paid in gold and silver for the interest on those bonds.

Now, Massachusetts wished to give an assurance, not only to those people who held the bonds at that time, but to those to whom she hoped to sell bonds later, that the contract made by her in 1861 under that statute would be kept in the spirit as well as in the letter. Those people believed, when they advanced the money, that they would be paid back in gold or silver. Massachusetts, by the act of 1862, assured them that that contract would be kept; and there was reason for doing it, for while the United States statutes provided that interest on her own bonds should be paid in gold or silver it was silent on the mode of payment of the principal of those bonds, and consequently the bonds of the United States fell below par in 1862. They began selling at 94 and 93, and later sales were at 85 and 83. The bonds of Massachusetts, issued prior to the legal-tender act, sold at a premium, but the interest was 6 per cent. After the passage of this act of Massachusetts, giving this solemn assurance, the bonds of Massachusetts sold still at a premium. But they were enabled to sell the bonds at a 5 per cent rate instead of a 6 per cent rate.

Mr. BURKETT. Did not the United States bonds sell below par before the legal-tender act?

Mr. SULLIVAN. Yes; in 1861 Congress authorized the issuance of bonds, and on April 2 bids for \$8,000,000 bonds were opened, etc., and bonds sold at 93—below par, then.

Now, it has been stated that in the brief of counsel for the State of Massachusetts—the counsel appeared before the Comptroller—the amount of money advanced by Massachusetts to the United States for the equipment of troops, etc., in the war of the rebellion, repaid to the State, principal and interest, on the basis which we now assert to be the true and lawful basis, is actually less than the amount which the United States would have paid the bondholders itself if it had issued bonds to raise this same amount of money.

Now let me illustrate without going into figures: If Massachusetts could raise a million dollars, to be advanced to the United States, by selling bonds at par (at 100 per cent), it would cost the United States less for the use of that money than if the United States issued bonds which sold for 85 or 90, because in either case the United States would have to pay the par value of the bonds—that is, 100 per cent—plus the interest. Now it was because the credit of Massachusetts was greater and better than the credit of the United States at that time that the Massachusetts bonds sold at a premium while the United States bonds sold at a discount. Now this premium which Massachusetts collected on these bonds, I want the committee to remember, was charged back to Massachusetts and we make no contest on that. We think it is proper

she should be charged on that. The United States, of course, would not permit Massachusetts to make a profit on her bonds and still claim for it. All she gets is 100 per cent on her bonds and the interest.

Now, then, that statement that it would have cost the United States more to raise this money by the sale of her own bonds than it will cost the United States by having the State of Massachusetts issue those bonds and paying her principal and interest and premium for the gold, which purchase shows clearly that this contract was a very beneficial one to the United States—that statement, Mr. Chairman, has been called directly to the attention of the Comptroller, and I have talked with him about it, and he tells me that he can not contradict it, and he believes it to be true.

The CHAIRMAN. It is now 12 o'clock, and it is time to adjourn; and I think we have got the gist of the argument of the gentleman. If you want to add anything to the record, you may.

Mr. SULLIVAN. I can finish it in five minutes. I will not make it a long story.

The CHAIRMAN. Very well; go ahead.

Mr. SULLIVAN. You have got the Comptroller's side as strongly as I can present it, and as strongly as I believe he has presented it himself.

Now to go back for a moment, to get these points clearly in mind: I contend that Massachusetts's real contract with her bondholders was to pay them in gold and silver coin. It was understood, though not expressed. It was their understanding, and that is what makes the contract; so that the second statute of Massachusetts, to which I have referred, was simply declaratory of her purpose enunciated in the first statute.

Now I claim that Massachusetts had a legal right to buy that gold and discharge her obligations in that way. Furthermore, it is asserted by the Comptroller, and I acquiesce in the statement as true, that in this transaction Massachusetts acted as the fiscal agent of the United States.

Let us examine the case, then, on the familiar principles of agency. If an agent is authorized by a principal to discharge a debt—suppose, Mr. Chairman, you authorized me to take charge of real estate for you in a distant city. Suppose you did this years ago, before the passage of the legal-tender act, and I took charge of your real estate—renting buildings, letting them, collecting rent, discharging mortgages, etc.; and on existing mortgages, in which there was no stipulation as to the mode of payment, I discharged them by the payment of gold and silver coin, acting under authority given by you to pay these off, and do all other things necessary.

Now, after that, Congress passed an act called the legal-tender act, and some nine years after the passage of that act the Supreme Court declared the terms of that act were applicable to contracts made prior as well as subsequent to it, but in the meantime I had expended large sums of money—on my reading of the law as it then stood, not having the power to anticipate what the Supreme Court might declare nine years later—and I rendered my accounts to you as agent, and you took a blue pencil and struck off the difference between depreciated currency and the gold which I had paid, and you should say, "I can not allow you that, because you might have discharged that obligation for me more cheaply than you did." I ask you, under such circumstances, could you in any court prevent me from collecting from you all the

money I had expended by discharging those mortgages in that way, when I acted in good faith and with your knowledge and without any instructions from you to the contrary? I do not think that any lawyer on this committee would contend that, and yet that is precisely what Massachusetts has done. She went along discharging her obligations in lawful money.

Mr. BURKETT. I will contest that proposition.

Mr. SULLIVAN. You will?

Mr. BURKETT. Yes, sir; it will not hold good.

Mr. SULLIVAN. I do not think there is the slightest doubt but that it will. In all these years, mark you, there was not a word of contrary instructions to any officer of the State of Massachusetts. She had given notice that she intended to pay in this way, and she kept on paying principal and interest in that way, and not a word was said against it by the United States during all these years. Now I say Massachusetts had a lawful right to pay this way, and in doing it she was simply discharging her contract according to its terms, and according to the understanding of the parties who were parties to the contract; and there can be no possible contention about that. That was the contract, and everybody so understood it.

Now, in closing, I want to call the committee's attention to the act under which this claim is made—the act of 1861. It is a very broad act—the act of July 27, 1861, entitled "An act to indemnify the States for expenses incurred in equipping soldiers," etc., for the suppression of the rebellion. That act has been interpreted in 160 United States, in the case of New York against the United States, and this auditing act of February 14, 1902, provides especially that all claims settled thereunder shall be in accordance with the case settled in 160 United States.

There a question arose as to the right of a State to demand interest from the United States. There is a statute which provides that the United States shall not pay interest upon claims up to the time of rendition of judgment upon these claims, and it was asserted that that statute would prevent New York from collecting interest on those bonds. But the Supreme Court said, "No; although that claim could not be allowed as interest, it would be allowed as part of the cost and charges and expenses by the State of New York in advancing money for the suppression of the rebellion." And on page 620, Mr. Justice Harlan, speaking for the court, said: "It would be a reflection upon the patriotic motives of Congress if we did not place a liberal interpretation upon those acts, and give effect to what, we are not permitted to doubt, was intended by their passage." He said it was intended "to indemnify the States for any costs, charges, and expenses properly incurred under the acts of July 27, 1861, and March 8, 1862," and the title of the act of 1861 shows its passage was "to indemnify the States for expenses incurred by them in defense of the United States." And on page 622 the court said: "It is as if the United States had itself borrowed the money, through the agency of the State."

Now, if the United States borrowed this money itself it would have cost her more to get it than it will cost her by allowing the claim of Massachusetts in full.

This is the only case. It can not be assumed that this will establish a precedent for other cases. There is no other case of the kind. No other State paid in gold except Pennsylvania, and as I said before, her claim has been settled. Now, the question is whether you will

decide this case according to the terms of the act of 1861 and make the State of Massachusetts whole.

I hope you will not regard the decision of the Comptroller as final. If you will look at his letter you will find he states he has attempted to apply the principles first applied to the cases with other States; but there is no other case of this kind, and to show that he himself is in doubt, he says, substantially, "I am in doubt, but all the facts are before you, and if I am in error you can correct it." So that it is for the committee to do that.

Mr. UNDERWOOD. The basis of your claim is what the Comptroller ascertains to be the difference between the gold value and the currency value of these bonds?

Mr. SULLIVAN. Oh, no. This statute of 1862—

Mr. UNDERWOOD. Explain to me what you base the amount of your claim upon—not the equities of it, but the amount.

Mr. SULLIVAN. That is the difference between the finding of the Auditor and of the Comptroller. The difference is the amount paid by the State as a premium upon gold purchased to pay these bonds, principal and interest.

Mr. UNDERWOOD. How do you ascertain the difference of the premium? Is that ascertained by the Comptroller?

Mr. SULLIVAN. It was stated by the auditor of the State of Massachusetts in the claim filed here, which statement has been reviewed by the Auditor of the Treasury for the War Department and by the Comptroller, and there is no difference as to the amount.

The CHAIRMAN. They all agree as to the amount?

Mr. SULLIVAN. Yes, sir.

EUREKA INSURANCE COMPANY.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, April 7, 1904.

HON. J. A. HEMENWAY,
*Chairman Committee on Appropriations,
House of Representatives.*

SIR: In reply to your communication of the 2d instant, inclosing H. R. 14548, "for the relief of the Eureka Insurance Company of Pittsburg, Pa.," and requesting a report thereon, I have the honor to transmit herewith copy of the report made in the case by the Auditor for the War Department on the 6th instant for your information.

Information of the same character contained in the Auditor's report of the 5th instant has this day been transmitted to the President of the Senate, in reply to the resolution of the Senate of February 29, 1904.

The papers inclosed in your letter of the 2d instant calling for information are returned herewith, as requested.

Respectfully,

H. A. TAYLOR,
Acting Secretary.

419 FOURTH STREET NW.,
Washington, D. C., March 31, 1904.

HON. JAMES A. HEMENWAY, M. C.,
Chairman Committee on Appropriations, House of Representatives.

DEAR SIR: House bill 14548, the present session of Congress, relates to one Treasury settlement of a claim, heretofore certified, with many others of like character, to Congress for appropriation. The amount of this certified claim is \$5,000, and was allowed

by the proper accounting officers of the Treasury under section 3483, Revised Statutes. (See Ex. Doc. No. 5, 53d Cong., 3d sess., p. 2.) Claims of this character and description have always been paid under appropriations the balances of which at the present time have been exhausted or carried to the surplus fund.

In the general deficiency appropriation claimants have heretofore been paid as follows: (Ex. Doc. No. 67, 48th Cong., 1st sess., p. 56, \$42,973.50).

General deficiency (see Public No. 188, act of June 8, 1896, p. 20; S. Mis. Doc. No. 57, 53d Cong., 3d sess., \$8,000; Ex. Doc. No. 33, same Congress and session, \$19,000).

General deficiency, year 1898, \$13,500. General deficiency, year 1903 (see act of Mar. 3, 1903, Public No. 156, pp. 53 to 55, inclusive), \$90,373.61.

Total, \$173,847.11.

I am informed at the office of the Auditor for the War Department that this claim of the Eureka Insurance Company is the only one remaining for which an appropriation has not been made. The reason for the omission to appropriate for this claim being that said settlement No. 5000 is for \$10,000, without naming the company or companies interested.

It appears, however, that the Auditor's certificate names these companies, the Phoenix, of St. Louis, Mo., and the Eureka, of Pittsburg, Pa., included in one settlement (No. 5000) for \$5,000 each on the same steamer (the *Champion*).

As already stated, appropriation for the Phoenix Insurance Company of St. Louis, Mo., for \$5,000 was made in the general deficiency act March 3, 1903.

The claim described in this bill is like all those heretofore paid, which originated during the civil war in consequence of risks on steamboats lost or destroyed while impressed into the military service of the United States on the Mississippi and Missouri rivers and their tributaries.

These certified claims are like the underwriters' claims for the payment of which nearly \$1,000,000 have heretofore been appropriated by Congress.

Very respectfully,

JOHN W. BUTTERFIELD,
Counsel for Claimant.

TREASURY DEPARTMENT,
Washington, April 6, 1904.

THE SECRETARY OF THE TREASURY.

SIR: Replying to your indorsement on the letter of Hon. J. A. Hemenway, chairman Committee on Appropriations, House of Representatives, who incloses House bill No. 14548, "For the relief of the Eureka Insurance Company of Pittsburg, Pa.," I have the honor to inform you that on the 5th instant, this Office, in reply to your indorsement on the resolution of the United States Senate of February 29, 1904, which requires the Secretary of the Treasury to reexamine settlement No. 5000, of 1884, reported in Executive Document No. 5, Fifty-third Congress, third session, for insurance paid by the above-named company on the steamer *Champion*, etc., submitted to you the following report thereon, which is given in answer to your indorsement on the case now under consideration:

TREASURY DEPARTMENT,
Washington, April 5, 1904.

THE SECRETARY OF THE TREASURY.

SIR: Replying to your indorsement on the resolution of the United States Senate of February 29, 1904, herewith returned, referred to me for report, which resolution requires the Secretary of the Treasury to reexamine settlement No. 5000 of 1884, reported in Executive Document No. 5, Fifty-third Congress, third session, for insurance paid by the Eureka Insurance Company of Pittsburg, Pa., on the steamer *Champion*, payable to W. L. Jones, receiver, and to report whether the award is of the same character as those provided for in the deficiency act of March 3, 1903, together with a detailed statement of the facts, I have the honor to inform you that the character of the papers and the evidence submitted in this case are identical with those filed with the Phoenix Insurance Company of Missouri, for which the sum of \$5,000 is appropriated by the provisions of the above-mentioned act, with the exception that while the awards made in the other cases were made payable to the several companies in their own right, that of the Eureka Insurance Company of Pittsburg, Pa., was made payable to W. L. Jones, receiver, care of Allen Rutherford, Washington, D. C. These claims for insurance are based upon the destruction of the steamer *Champion*, which was burned at Memphis, Tenn., September 22, 1863, while in the military service of the United States.

Her owners were paid by Third Auditor's award No. 31, dated May 21, 1864, the sum of \$32,000. The Auditor found that the steamer was worth \$62,000 when it was taken into the military service, and that the owners had been paid by the several insurance companies which had risks on the steamer the sum of \$30,000, and this sum deducted from the value found, and made his award for \$32,000, as above stated.

The claims of insurance were presented on March 3, 1865. They were disallowed by the Third Auditor on June 5, 1865, and on December 14, 1866, the Second Comptroller, while agreeing with the conclusions of the Auditor, closes his decisions upon the claims with the following remarks:

"These cases belong to a numerous class, of which doubtless many will be presented for settlement by the accounting officers. I therefore suggest the propriety of referring them to the Attorney-General for his opinion upon the law of subrogation as applicable under the statute of March 3, 1849."

Subsequently the question was submitted to Attorney-General E. R. Hoar, who gave an opinion favorable to the claims of the companies.

The action of the Comptroller was regarded by the Auditor as a suspension of the claims, and not as a final decision, and for that reason held that they were not res adjudicata.

On December 12, 1884, the Third Auditor rendered the following decision in the case of the Eureka Insurance Company:

"The claim of the Eureka Insurance Company, of Pittsburg, Pa., is represented by William L. Jones, who is shown by a certified copy of the minutes of a meeting of the stockholders of said company to have been appointed the receiver of said company. This fact is also shown by the affidavit of Alexander Nimick, a shareholder of said company, who avers that he was one of a committee of the stockholders appointed to designate a receiver to wind up the affairs of the company, and that the said William L. Jones was appointed to act in said capacity. Jones states under oath that no other receiver of the company has ever been appointed by the court or otherwise, to act in his place, and that no one has been appointed to act with him.

"The company insured the interest of George C. Pearce, in the sum of \$5,000, as is shown by a duly certified copy of the policy transmitted herewith. The payment of this sum is shown by the certificate of H. M. Blossom, agent of the company, and by the affidavit of Pearce, who swears that he had \$5,000 insurance in said company, and that he had been paid the same, less the premium note, making the cash payment of said company the sum of \$4,450.

"The receiver has designated Allen Rutherford, esq., his attorney.

"I accordingly allow to Wm. L. Jones, receiver of the Eureka Insurance Company, of Pittsburg, Pa., the sum of \$5,000. Draft to be sent in care of Allen Rutherford, esq."

This claim, with those provided for in the act of March 3, 1903, was reported to Congress for appropriation, session commencing December, 1884, but no appropriation was made at that session.

By resolution of the House of Representatives, of March 25, 1886, a request was made to transmit a list of all cases allowed by the accounting officers enumerated in House Document 55 and 143, Forty-eighth Congress, second session, for which appropriations have not been made.

On April 2, 1886, the Second Comptroller indorsed upon each of the certificates of settlement his disallowance of the claims, as follows:

"SECOND COMPTROLLER'S OFFICE,

"April 2, 1886.

"The within certificate, settlement 5000, of 1884, having been submitted to the Comptroller, by the Secretary of the Treasury, with certain facts, in his judgment, affecting the correctness of the balances therein stated, under section 191, Revised Statutes, and having reexamined the claims upon their merits under said section 191, and in the light of the facts submitted by the Secretary, I do find and decide that there is nothing due the claimant."

The deficiency act of August 4, 1886, made no appropriation for the payment of these claims. The papers were therefore returned to the files.

In compliance with Senate resolution of June 27, 1894, requiring the proper accounting officers of the Treasury to reexamine the Treasury settlements made in 1884 and 1885, numbered 5000, 5085, 5201, 5300, 5303, 5363, and 5368, heretofore certified to Congress for appropriation, the Acting Secretary of the Treasury, on December 6, 1894, transmitted to that body the opinion of the Assistant Comptroller, dated November 2, 1894, in which the law and facts upon which the accounting officers derived their authority for making the above-mentioned settlements are elaborately set forth; therefore I have thought it proper to invite your attention to the following

statements contained in his report, having particular reference to settlement No. 5000, of 1884, and other claims of insurance companies for reimbursement of moneys paid by them to the owners of the steamer *Champion*, to wit:

* * * * *

The facts in all these cases were simple and clearly proven. There never was any question of fact—that is to say, any disputed question of fact—in any of these cases except one. In the first of these cases inquired after by the Senate, settlement No. 5000, is involved a question, a very important question of fact, the decision of which settles the only matter of any importance arising in any of the cases. The vessel insured and lost in that case was the steamer *Champion*. She was in the military service by impressment. She was laden with hay in the hold and lower deck, and with medicines, etc., in boxes above, all for the use of the Army. She was burned while lying at the wharf at Memphis and was a total loss. The day after the burning one Murphy made boasts in the public streets of Memphis that he had set fire to the boat and was to receive \$3,000 from the Confederate government for the job, and when paid was going down the river to burn other Government vessels. The man was arrested by the military authorities and convicted of making threats to destroy Government property, but the charge of burning the *Champion* was dismissed. It was proven that he was intoxicated at the time, and that his boasting was the mere raving of a drunkard. The insurance companies investigated the matter and satisfied themselves that he had nothing to do with the burning of the vessel, and accordingly they promptly paid the amounts insured to the owners within the sixty days limited by their contract.

Nevertheless when the claims were presented to the accounting officers they, out of abundant caution, carefully reexamined the whole matter of the burning of the steamer. They procured all the original evidence against Murphy, and additional evidence also. They satisfied themselves fully that there was no reason to believe that the vessel was burned by any emissary or agent of the Confederate government, or by any incendiary, but that the burning was by unavoidable accident. The elaborate report in this matter of Auditor Wilson, of February 7, 1868, concurred in by the Second Comptroller August 11, 1868, concludes as follows, viz:

“I am therefore of opinion that the evidence adduced upon the trial of Murphy is wholly insufficient to prove that either the *Campbell, jr.*, or the *Champion* was burned by incendiaries employed for that purpose by the rebel government, or that they were burned by any incendiaries. (See the report in the files.)”

The significance of this fact in these cases is, that it shows conclusively that whatever was the so-called “war clause” in the policies, it was distinctly understood by the insurer and the insured, as well as by the accounting officers and the Attorney-General (for it was in one of these cases that the Attorney-General held the insurance company entitled to recover), that though the insurers might be released under the terms of the policy in case the vessel was destroyed by the enemy, yet if she was destroyed by accidental fire, or by any other ordinary marine disaster, the insurer was held, notwithstanding the vessel was in the military service when lost.

All of these claims were promptly presented in the years 1866 and 1867, immediately after the adjustment between the owners and the insurance companies; but there was very great delay in the settlements at the Treasury Department, caused by the doubts of the accounting officers and other causes, which were fully stated in my report of July 9, 1894, upon a similar Senate resolution. (See Senate Ex. Doc. No. 133, 53d Cong., 2d sess.)

The delay in these cases can not be attributed to any laches or neglect on the part of the claimants.

No appropriation was available when the claims were allowed, and they were reported to Congress for an appropriation. No appropriation was made at the session to which the report was made. This failure to appropriate was not attributable to anything in the character of the claims themselves, but was said to be caused by a mere matter of parliamentary practice. However, before the next session of Congress these cases, with several hundred others, were recalled by the Secretary of the Treasury and referred to the Second Comptroller for another examination and report. The Comptroller assumed that the claims were referred to him under the provisions of section 191 of the Revised Statutes; and accordingly, under authority of said section, he disallowed these claims, with many others, most of which have since been appropriated for and paid.

The Second Comptroller indorsed upon each of the certified settlements in these cases his disallowance of the claim, as follows:

“SECOND COMPTROLLER’S OFFICE, April 2, 1886.

“The within certificate, settlement No. 5000, of 1884 * * * having been submitted to the Comptroller by the Secretary of the Treasury, with certain facts in his

judgment affecting the correctness of the balances therein stated, under section 191, Revised Statutes, and having reexamined the claims upon their merits under said section 191, and in the light of the facts submitted by the Secretary, I do find and decide that there is nothing due the claimants."

A similar indorsement is made upon each of the settlements in these cases.

This action of the Second Comptroller was, in my judgment, wholly unauthorized and erroneous.

In the first place, the Secretary did not, in point of fact, refer the cases under section 191. He merely referred them for reexamination and report, in order to determine what future action should be taken in the cases. The words of the reference are these:

"TREASURY DEPARTMENT, *January 16, 1886.*

"Respectfully referred to the honorable Second Comptroller for reexamination, the claims within referred to having been reported to Congress for appropriation and not favorably considered."

There is no reference in this indorsement, the only one made in the cases, to section 191; there is no mention of "certain facts" submitted, nor of any "judgment" of the Secretary as to the correctness of the balances. Application was made to the Secretary for the facts said to have been submitted to the Comptroller, and he replied that the reference did not purport to submit any facts, and there was no evidence that any facts had been submitted, except the papers in the cases—the record that had been submitted to Congress. The Third Auditor, to a call for copies of the facts referred to, replied that there are not and have not been any facts on file in any of these cases other than the aforesaid papers.

In the second place the Secretary of the Treasury had no right or authority to refer these cases under section 191 of the Revised Statutes. The Secretary himself submitted the very question to the Attorney-General, who declared emphatically that the Secretary of the Treasury has no right or authority to return to the Comptroller any claim settled and certified to the Secretary of War; but the Secretary of War alone can return such claims under section 191. (15 Opinions, 192-199.)

In the third place, even the Secretary of War, who is the only head of Department that could refer these cases under section 191, could not himself do it, unless, in addition to "the record"—that is, the papers in the case—he submitted certain new or additional facts showing the incorrectness of the balances. (15 Opinions, 628.)

So that, in my opinion, the action of Second Comptroller Maynard, in 1886, purporting to disallow these claims under the provisions of section 191, Revised Statutes, was absolutely unauthorized and void, and the settlements still remain valid subsisting obligations against the United States awaiting appropriation.

Respectfully,

(Signed) F. E. RITTMAN, Auditor.

FRIDAY, *April 8, 1904—10.30 a. m.*

TREASURY DEPARTMENT.

STATEMENT OF MR. E. B. DASKAM, DIVISION OF PUBLIC MONIES.

The CHAIRMAN. Kindly turn to page 5 of the bill which is before you.

CONTINGENT EXPENSES, INDEPENDENT TREASURY.

Mr. DASKAM. For "Contingent expenses" we ask \$20,000.

The CHAIRMAN. Why do you ask for the \$20,000?

Mr. DASKAM. We have only \$28,000 left, and we have three months to go.

The CHAIRMAN. What do you do with this money?

Mr. DASKAM. Pay for the transportation of public money between the subtreasury offices and the collection of revenue to the depository and the contingent expenses of the nine subtreasury offices.

The CHAIRMAN. Where does this deficiency come in in the payment of contingent expenses?

Mr. DASKAM. In the first place, the bulk of the whole thing is transportation—nine-tenths and more—and that is something we can not figure on and do not know until it is developed. One month may be large and another smaller.

Mr. UNDERWOOD. Is this appropriation for the transportation of men or money?

Mr. DASKAM. Money.

The CHAIRMAN. Between the different subtreasuries?

Mr. DASKAM. Yes, sir.

The CHAIRMAN. You do not pay out of this appropriation any portion of the transportation of silver coin?

Mr. DASKAM. That is a separate appropriation; that is to individuals.

The CHAIRMAN. What increase has there been in the contingent expenses of the different offices?

Mr. DASKAM. It is principally in the transfer from the subtreasuries to the Treasury of mutilated currency and coin; that takes a great deal.

The CHAIRMAN. In other words, this item is for transportation, and you have not increased the contingent expenses?

Mr. DASKAM. This item of contingent expenses is, as I tell you, nearly all for transportation, although it is all contingent expenses.

The CHAIRMAN. I do not believe you understand just what I am getting at. The increase has been for transportation and not for the expenses of the offices?

Mr. DASKAM. Both.

The CHAIRMAN. I want to know how much for the expenses of the offices?

Mr. DASKAM. Just the contingent expenses of the offices for stationery, machines, and one thing or another. That is probably not \$10,000 of the whole of this appropriation; \$10,000 or \$12,000.

The CHAIRMAN. Then there has been no material increase?

Mr. DASKAM. The greatest increase has been caused by the purchase of arithmeters. They cost \$375 apiece, but they claim that it is a saving of one clerk and maybe more in having those machines, just to that extent—we have one of the machines in nearly every subtreasury; in the New York office we have six.

The CHAIRMAN. You have not discharged any clerks by reason of the introduction of the machines?

Mr. DASKAM. No, sir; but I suppose otherwise they would have asked for additional clerical assistance.

The CHAIRMAN. And you hope to avoid asking for clerks?

Mr. DASKAM. Yes, sir; but I do not have anything to do with the clerical part.

There is one other increase, and that is in the safety of the subtreasury vaults. They are putting in new improvements—electricity, linings, and all that.

The CHAIRMAN. Any portion of that work paid for out of this fund?

Mr. DASKAM. Yes, sir.

The CHAIRMAN. How much of it?

Mr. DASKAM. \$1,500 or \$2,000.

I ask for \$20,000 deficiency. The March bills just came in yesterday. So when I made the estimate before there were two months' bills to come in, which have since come in. So I have but \$28,000 left and have three months' bills to pay. That is only a little over

\$7,000 a month. Although I asked for \$20,000 a month ago, I find when the bills come in that I ought to have asked for more. I do not suppose you will change that, but that I will allow the amount found due by accounting officers pay the rest as heretofore.

TRANSPORTATION OF SILVER COIN.

The CHAIRMAN. The next item is "Transportation of silver coin?"

Mr. DASKAM. That runs along just about \$10,000 a month. I have \$7,000 of that appropriation left and I should have \$27,000. So I have asked for \$20,000.

The CHAIRMAN. You have asked for \$20,000 deficiency?

Mr. DASKAM. Yes, sir. In 1893 we spent a little over \$120,000. We asked for \$100,000 and then had a deficiency of \$20,000, and \$5,400 had to be paid by the accounting officers.

The CHAIRMAN. This is for the express charges on silver coin?

Mr. DASKAM. Yes, sir; on silver coin. The law requires the Secretary of the Treasury to send to any person who desires it \$1,000 when he has deposited \$1,000 with a depository. We send from each of the 10 offices, the Treasury office and the 9 subtreasury offices, from the nearest point.

Mr. UNDERWOOD. The object is to keep the silver dollars in circulation?

Mr. DASKAM. Yes, sir; in order to obtain an exchange, which they have free of cost. Any person, under the law, who wishes \$1,000 silver coin can have it transported to him free of charge, no matter where he is. They may not really need that \$1,000 in silver to use it, but they get it either from New York or Baltimore without any cost. Then they can pay it out without having cost them anything. If they had to pay the expenses, it would cost them \$3 or \$4 a thousand. A man notifies his correspondent in New York to just go there and deposit \$1,000, and he gets the money in any town free of charge.

Mr. UNDERWOOD. There is another reason for maintaining the law?

Mr. DASKAM. Yes, sir.

Mr. UNDERWOOD. At one time the accumulation of silver dollars in the Treasury was a hinderance to you, and the object of the Government was to get it out?

Mr. DASKAM. Yes, sir; and try to keep it out, but we can not keep out more than about \$60,000,000 in circulation. While moving crops it will go out and in three months all come back again. It will go out at New Orleans and go into Texas and come into the subtreasury at St. Louis, because transportation is a little better from Texas to St. Louis, for some reason or other.

Mr. VAN VOORHIS. You do not find the use of silver dollars increasing any?

Mr. DASKAM. But it is a vast convenience, particularly during crop season.

Mr. VAN VOORHIS. I understand that. This item is increasing right along.

Mr. DASKAM. It has run about \$10,000 a month. If we ask for \$100,000, we either have to ask for a deficiency or pay it through the accounting officer after it is over.

Mr. VAN VOORHIS. The amount of silver shipped out averages about the same?

Mr. DASKAM. Yes, sir; about \$125,000 a year. That has been the

amount for several years now. The first appropriation made was by Congress, of their own motion, without our making an estimate, and was either \$20,000 or \$30,000. That was because there was a great demand for silver and it cost them too much to get it from a sub-treasury, and Congress started in that way by appropriating \$20,000 or \$30,000, and it has grown to \$125,000. During the last five years I think it has cost about \$125,000.

Mr. UNDERWOOD. That is the law, and you have to comply with the law?

Mr. DASKAM. Yes, sir; and in a good many respects it is a good thing.

Mr. VAN VOORHIS. How does the silver find its way back into the Treasury?

Mr. DASKAM. It accumulates in the banks; they have no use for it after the crops are moved, and they want to get it back into the Treasury and get a currency they can use.

Mr. VAN VOORHIS. And they ship it back to the Treasury?

Mr. DASKAM. Yes, sir; they have to get it back at their own expense. They can not get it out; they can not get the customers to take it. Away back in the time of John Sherman they tried to get it out, but they found that they could not keep in circulation more than between \$60,000,000 and \$70,000,000 in silver, and the rest of that came back into the Treasury for silver certificates.

The CHAIRMAN. I saw a statement or a letter from the Secretary of the Treasury stating that there were about 500 carloads of silver in the Treasury.

Mr. DASKAM. I do not remember just how much. The one big vault has over a hundred million dollars of silver in it and it weighs 30 tons. You can imagine the weight of it.

TRANSPORTATION OF MINOR COIN.

The CHAIRMAN. The next item is "Transportation of minor coin." How much of that appropriation have you on hand?

Mr. DASKAM. \$1,520, and we ask for \$3,000 deficiency, and that will just about make it, but the amounts asked for transportation of silver coin and the contingencies I am quite sure will not be enough.

RECOINAGE OF GOLD COIN.

The CHAIRMAN. The next item is "Recoinage of gold coin."

Mr. DASKAM. For 1904 there have been appropriated \$6,000 and there is a deficiency of \$657.12. That was for the last year. When the gold coin banks up in the subtreasuries you have to ship it to the mint for recoinage of the light-weight coin, and we do not know just how it is going to pan out, but a great deal that is coined there has not really cost the Government anything, because under the regulations they take 4 cents a grain for every coin that is found light, and that money goes back into the Treasury for miscellaneous receipts.

Mr. VAN VOORHIS. If there was no loss, why do you ask for this?

Mr. DASKAM. That represents a deficit in the Treasurer's cash. He sustains that loss until we reimburse him from this appropriation, and the amount we take in at 4 cents a grain instead of carrying it to this appropriation, which is a cumbersome way, we just cover it in as a miscellaneous receipt.

**STATEMENT OF MR. R. B. ARMSTRONG, ASSISTANT SECRETARY
OF THE TREASURY.****COLLECTING THE REVENUE FROM CUSTOMS.**

The CHAIRMAN. You had \$2,400,000 deficiency on the urgency deficiency bill for the collection of customs and you ask for \$100,000 additional.

Mr. ARMSTRONG. I will say this, Mr. Chairman and members of the committee: At the time we made those figures we figured just as closely as we could. Since the time I appeared before you on that matter Congress has extended the "I. T." privileges to Utica and Salt Lake. That will cost something. Also made Chester a subport of entry, and Portal a subport of entry with "I. T." privileges, and Wilmington, N. C., was granted "I. T." privileges, and Niagara Falls also. In addition to that, the position of naval officer at Chicago was created, carrying a salary of \$5,000 and necessitating the organization of an office there. I think there are 12 clerks. Of course that was necessary for the commerce of Chicago, and it is a good thing to do, but it will cost some additional money.

The same is true of the appraiser at Pittsburg. The appraisership there carries a salary of \$3,000, a new office created at this session, and I think two or three additional men will have to be employed there. It will improve the service and we will probably get a good many more dollars of duty, and it will certainly expedite the business at Chicago by having a naval officer there to enable the merchants of Chicago and those who import through the port to get their money after the liquidation of their interests if there is anything coming to them. The amount that has been tied up is considerable and the large importers have been protesting against it for several years. I suppose the salaries and all will cost \$30,000 additional to run that office.

The most important purpose for which we are asking for the \$100,000 is covered by the request for the extension of the limit from \$100,000 for fraud purposes to \$150,000. Two cases the last fiscal year cost us a tremendous amount of money. One was the Rosenthal case—the silk case—in which we convicted an examiner and importer. The importer has been granted a new trial. The other man has been sentenced to two years to the penitentiary. This case covered the whole world. We had to get evidence from Japan, France, Switzerland, and England. We had men working right along. I have not figured up what it will cost; that requires a great deal of trouble in order to get the amounts put together, but it was one of the most acute and finely managed swindles we have had for a good many years in the customs service, and it was a thing that no one could afford to have a failure on.

If we did not convict in that case, we might as well throw up our hands on things of that nature, and for that reason we spent money wherever it was necessary, depending upon Congress to assist us when the time came. We had to send a man abroad from Washington because the men who were there were overworked on work they already had; and as a matter of fact the sending of the man from Washington brought the most important witness here to New York, and I believe practically convicted both men. I suppose, all told, that cost us \$25,000. They offered a certified check to me in my office for

\$400,000 to stop the prosecution, and that was declined, because as a business proposition we could probably save \$500,000 a year by convicting the men and putting them in the penitentiary; and I know of several cases—I know of them unofficially—where men have gotten scared and raised their values in order to be in a position where there could be no complaint whatever, and I think the effect of that throughout the country will be tremendously in favor of collecting the proper duties.

Then, there was another case, the Glassglow Manufacturing case, at Boston. We discovered that for three or four years they had been bringing in embroideries from Switzerland without invoices. They had not taken them before the consul at all. They brought them in and invoiced them in a memorandum, showing that they were samples or clippings worthless for commercial purposes, except to use in patchwork in woman's underclothing, and they invoiced each one under a hundred dollars. Therefore they did not need a consular invoice. Then they extended the field of operations and did the same thing with lace curtains, calling them "corners," which they use as samples in selling the goods, and in some places they sell them as table covers.

We had a good deal of trouble running this down. We found in Chicago and Toledo and in other places that lace curtains were being sold for less than it cost to land them, and we worked and worked and worked and investigated at these different markets, and finally we located it all in Boston. Word had been sent up there before. We had suspected Boston, and finally we called in a couple of men and sent them up there and they caught them red-handed, and it resulted in the arrest of three importers, members of this Glasgow manufacturing company, and two of our examiners, and the president of a custom broker's firm who had been handling these goods as the consignee. Stone and Doner were the names of the brokers, and recently the grand jury has indicted all these men, our examiners, the importers, and the brokers. The fraud was very immense in its possibilities and we had to send a man over there to get all the evidence. There was nothing in the consulate and the evidence had to be worked up. Therefore, those two cases have cost a great deal of money. In addition to that we have the extension of "I. T." to ports throughout the country, while we have not had any additional money since 1879.

The CHAIRMAN. Please explain what "I. T." means.

Mr. ARMSTRONG. "I. T." means "immediate transportation." The granting of immediate transportation to a place permits the transportation of goods from any place abroad through the port of entry or the original landing place at the seaboard or the frontier in the transmission by bonded routes of railroad to the interior points and the delivery and payment of duties at that place; so that a merchant at Indianapolis, Peoria, or any other place which has the "I. T." privileges can import direct instead of paying the duties at New York or Boston, if that should be the port of entry, and he does all his business there, and he gets the credit of being a direct importer.

That really is the greatest advantage to the merchant. There are two things. He is able to be right on the spot and does not have to do business through a broker or representative in New York or Boston, but he is there and pays his duties and if there is a protest he has the right of appeal to the board of appraisers. If the city did not have

the "I. T." privileges he would have to protest at the place where the duties were paid and the information might not come to him within ten days and he only has ten days within which to file the protest and therefore he might have injustice done him.

Mr. VAN VOORHIS. How does he secure the privileges?

Mr. ARMSTRONG. The customs administrative act of 1890—you mean how to secure the "I. T." privileges? That is granted by Congress.

Mr. VAN VOORHIS. Generally?

Mr. ARMSTRONG. There are specific bills in each case. For instance, there is a bill in now for Peoria. The Secretary of the Treasury has no authority to direct one or to abolish one when the need of it is gone. That is the difficulty, and, as I say, our special agents have remained the same number, practically, and they have had to do a great deal more work. They have had to go to interior points, as in this late case, and all over the country. Therefore, it seems to me very important that our hands should not be tied.

The CHAIRMAN. Of course, you do not spend \$100,000 in each of the years and in no year you will spend any more than necessary, but under the present law you are limited to \$100,000?

Mr. ARMSTRONG. Yes, sir; out of this general appropriation.

The CHAIRMAN. And you seek to have the limit increased to \$150,000?

Mr. ARMSTRONG. Yes; it is necessary. Probably if this appropriation is not granted we will have to drop a lot of men right off and drop a lot of important work, and we will be seriously handicapped, because this Glasgow trial will probably come up the last of April or the first of May.

COMPENSATION IN LIEU OF MOIETIES.

This compensation in lieu of moiety is for information that we get from different people about frauds against the revenue, and on an average we keep about 75 per cent of the additional fees and penalties collected. We can not pay these informers anything unless you give us something. We pay out about 25 per cent of the additional amount which the Government gets by this information.

It is the only way I know of by which we will ever get it and we do not, as a rule, pay over, I think, about 15 or 20 per cent and sometimes a little more. The whole average will be 25 per cent that is paid out for this information. It is worth a great deal more than the amount asked for because people know that information is given and that people get paid for it. Therefore they are afraid to take any chances; and it is of a great deal of assistance in protecting the revenue, and we would be greatly handicapped if the appropriation was not allowed. For instance, the other day a case came in where a man thought he had not been treated justly by some people and gave us some information, and I think it will probably result in the collection of a large amount of money. We are working on that now. That man never would have given the information, no matter how hurt, unless he got some money, and then we do not pay for information unless it results in good to the Government. If we do not collect duties or penalties the man does not get a cent. If he "makes good" it results in a remuneration to the Government and then he gets a certain percentage, on an average about 25 per cent, so that the Government gets at least 75 per cent.

REFERENCE BOOKS.

There is another thing, the item of contingent expenses of \$336 for the Federal Reporter for the customs division. We have not any Federal Reporter in the customs division. There is only one set, and that is in the Solicitor's office, and in constant use, and all of the law clerks have to go down there, and if the Solicitor's force happens to be using the volumes it delays the business. It seems a small outlay for the absolutely necessary working tools of the customs division.

The CHAIRMAN. For 1904 they had \$1,500, and I do not see why they did not buy it out of the \$1,500. It could not have been very important.

Mr. ARMSTRONG. That appropriation is under the chief clerk, and he has to buy all the books. I can not tell you, but I know the appropriation is only \$45; that is what we were informed when we asked for the books.

ENGRAVING AND PRINTING.

STATEMENT OF MR. WILLIAM M. MEREDITH, DIRECTOR.

The CHAIRMAN. At the foot of page 9 is the item—

The Secretary of the Treasury is hereby authorized and directed to transfer from the unexpended balance now to the credit of the appropriation for materials and miscellaneous expenses, Bureau of Engraving and Printing, 1904, \$36,000, as follows: To the appropriation for compensation of employees, Bureau of Engraving and Printing, 1904, \$6,000; and to the appropriation for plate printing, Bureau of Engraving and Printing, 1904, \$30,000; and to use the sums so transferred as though they had been originally appropriated for the purposes of said appropriations for compensation of employees, Bureau of Engraving and Printing, 1904, and plate printing, Bureau of Engraving and Printing, 1904.

Now, you have more money on hand in the fund for materials and miscellaneous expenses than you need, and you have less than you need in the other fund?

Mr. MEREDITH. Yes, sir. The expenses for employees have exceeded our pro rata by that much up to February 29.

The CHAIRMAN. By making this transfer it balances up your service for the remainder of the year?

Mr. MEREDITH. Yes, sir; and leaves an excess in materials and miscellaneous expenses.

The CHAIRMAN. It is necessary to have this appropriation for the purposes mentioned here, for compensation of employees?

Mr. MEREDITH. Yes, sir. The way it looks, in case we did not get this appropriation, we would have to stop the operations of the Bureau.

Mr. BURKETT. What would stop?

Mr. MEREDITH. Plate printing and the work of the Bureau.

The CHAIRMAN. Stop the general work?

Mr. MEREDITH. Yes, sir; the whole Bureau would have to stop.

The CHAIRMAN. In place of asking for a deficiency you ask for the transfer of money from a fund where you have too much to items where you have too little?

Mr. MEREDITH. Yes, sir; that is it. I have thought since that I probably should have asked for a deficiency item.

The CHAIRMAN. You are doing it in a better way.

Mr. BURKETT. Have you more employees now than when you started?

Mr. MEREDITH. We have more work to handle and we have had to work longer hours.

Mr. BURKETT. You work longer hours or more people?

Mr. MEREDITH. They work extra hours. We have increased the hours but not the schedule.

Mr. BURKETT. How many hours do they work now?

Mr. MEREDITH. They are working now nine hours. We did work ten hours. The last two months I have been scaling it down. You know plate printers work by the piece. I am scaling down the time so as to bring it in as close as possible.

OFFICE OF THE TREASURER.

The CHAIRMAN. On page 4 of the bill there is this item:

For the temporary employment by detailing from the Bureau of Engraving and Printing of additional counters adequate to assort the congested notes in the national bank redemption agency of the office of the Treasurer of the United States, to be used to reimburse the appropriations of the Bureau for the force now detailed, \$12,000.

When you detail this force, you pay them from your appropriation?

Mr. MEREDITH. Yes, sir.

The CHAIRMAN. And they work over in the Treasury Department?

Mr. MEREDITH. Yes, sir. It was the understanding when the detail was made that they would reimburse the Bureau.

The CHAIRMAN. And it is necessary to have them and to reimburse the Bureau in order to keep up your expenses for the current year?

Mr. MEREDITH. Yes, sir.

Mr. BURKETT. Why was that done?

Mr. MEREDITH. Because the Treasurer wanted the people and did not have the money to employ them. They did not have the appropriation and relied upon getting an appropriation to reimburse the Bureau.

Mr. BURKETT. If they did not need them, why do you need a deficiency to make it up; you evidently did not need them in your Department. Why do you need this money?

Mr. MEREDITH. I expect to get it from the Treasurer; it is he who needs it.

QUARANTINE SERVICE.

STATEMENT OF DR. WALTER WYMAN, SURGEON-GENERAL, BUREAU OF PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

The CHAIRMAN. On page 7 of the bill there is the item "For necessary repairs to floating property of the quarantine service, \$9,500." What particular part of the floating property of the quarantine service is that for?

Doctor WYMAN. This is for the repair of our regular quarantine steamers in active service.

The CHAIRMAN. You have a general fund for maintaining the quarantine service?

Doctor WYMAN. Yes, sir.

The CHAIRMAN. \$325,000 this year?

Doctor WYMAN. Yes, sir. We asked for \$365,000 for this year and only \$325,000 was given.

The CHAIRMAN. How much of that have you on hand?

Doctor WYMAN. About \$100,000 left for four months.

The CHAIRMAN. If you have \$100,000 on hand, how do you figure \$9,500 deficiency?

Doctor WYMAN. By what we have spent up to the present time and by the records of the expenditures at the stations.

The annual appropriation for the current expenses of the quarantine stations of the United States, Porto Rico, and Hawaii (Appropriation, Quarantine Service, 1904) is \$325,000. There are 21 quarantine stations in the United States, 6 stations in the Hawaiian Islands, and 8 stations in Porto Rico. In the inspection and disinfection work of all these stations there are employed 9 steamers, 4 disinfecting barges, and 22 steam and naphtha launches, all in active service.

Three hundred and sixty-five thousand dollars was asked for in the estimate of expenses for the current fiscal year for all these stations, including the repairs to the vessels, but only \$325,000 was appropriated. By the utmost economy and care these vessels have been kept in commission, but without necessary repairs, and it is believed we will be able to keep within the limits of this appropriation, although the full sum of \$365,000 would not have been more than necessary, and the sum of \$9,500 asked for is absolutely necessary in order to save the vessels from being crippled and disabled from use. It is an economy to keep the vessels in good repair.

On account of the severe winter some of these vessels have been subjected to considerable strain in the boarding and inspection of vessels to avoid delay to commerce, but only minor, absolutely necessary, running repairs have been made in order to retain the vessels in service. It is estimated that there is only a sufficient balance of the appropriation for the running expenses of the station during the fiscal year.

The CHAIRMAN. The \$325,000 includes the running expenses of the stations as well as the repairs?

Doctor WYMAN. Yes, sir.

The CHAIRMAN. Figuring on the basis of running expenses paid now, you think it will take the full \$100,000 to pay the running expenses; am I right about it?

Doctor WYMAN. Yes, sir; the ordinary running expenses.

The CHAIRMAN. So this deficiency of \$9,500 would be all the money you would have for repairs?

Doctor WYMAN. Yes, sir.

The CHAIRMAN. And if it is not allowed you will have no money for repairs?

Doctor WYMAN. No, sir. I have six vessels in active service that need repairs right now waiting for the deficiency to become available.

The CHAIRMAN. It will take the full \$100,000 on hand to pay the running expenses of these different stations?

Doctor WYMAN. Yes, sir.

The CHAIRMAN. And you can not take any portion of it for repairs?

Doctor WYMAN. No, sir; we can not.

COLLECTING INTERNAL REVENUE.

STATEMENT OF HON. JOHN W. YERKES, COMMISSIONER OF
INTERNAL REVENUE.

The CHAIRMAN. On page 10 of the bill you will find "For salaries and expenses of agents, fees and expenses of gaugers, salaries and expenses of storekeepers and storekeeper gaugers, and miscellaneous expenses, incident to the collection of internal revenue, \$160,000." You had \$2,000,000 for the present fiscal year?

Mr. YERKES. Yes, sir.

The CHAIRMAN. Please explain to us the reason for the deficiency estimate?

Mr. YERKES. Simply the business of the country. Four out of six of the deficiency appropriations made to my bureau I can control the expenses of. There are two that the business interests of the country control. One is this and the other is the appropriation of \$70,000 for paper upon which to print internal-revenue stamps. This appropriation of \$2,000,000 is, as you have read, for the payment of the salaries and expenses of the regular revenue agents, gaugers, storekeepers, and storekeeper gaugers, and miscellaneous expenses.

Of this fund of \$2,000,000 I have a balance on hand now of \$408,000. Of the \$1,600,000 expended all of it has been expended in paying the salaries of storekeepers, storekeeper gaugers, and gaugers, except \$55,628, of which some \$46,000 has been used to pay the revenue agents and \$9,500 miscellaneous expenses. The salaries of storekeepers, gaugers, and storekeeper gaugers depend upon the number employed. They are per diem men. They are only paid when on duty. They are not allowed a day of holiday as the clerks in the Bureau are. They are employed from daylight to darkness and we only have them on duty when the requirements of the business of the Bureau demand it.

The CHAIRMAN. In other words, if a distillery is running—

Mr. YERKES (interrupting). We have to put a man there to watch it.

The CHAIRMAN. And when the distillery shuts down the man is discharged?

Mr. YERKES. Yes, sir; unless the amount of whisky in bond, under the statutes, requires us to keep a man on guard. The business is rapidly increasing. For the past eight months of 1904 we have collected from distilled-spirit taxes alone \$93,950,000 and for the same eight months of 1903 the amount was \$90,356,000 in that one item alone—the eight months of this year as compared with the same eight months of last year. It simply requires the employment of more of these men, and the larger the deficit is the more money the Government has received. If this deficit was \$500,000 it would be a great deal better for the Treasury.

The CHAIRMAN. In other words, this deficiency represents an increase of business all along the line?

Mr. YERKES. Yes, sir; all along the line.

Mr. BURKETT. Who determines when the agents, etc., are needed—the local man?

Mr. YERKES. No, sir; he does not. The local collector reports to my office, and we either approve or disapprove. For instance, there

will be 12 gaugers attached to these big distillery plants, and the collector will think that he ought to have an additional one there. He submits it to us. We either refuse or, after examination, if we think he ought to have another man, we allow it. We are responsible. He recommends, and we determine it. This \$160,000 ought to be allowed without any question. I will still have a deficiency. This would go right away in advance. For instance, you gave me on the urgent deficiency an appropriation of \$750,000 or \$760,000 to meet the deficiency for the preceding years for these men. They had to be out of their money for seven months. They get from \$2 to \$4 a day. I asked for \$21,000 and you gave \$19,000, and so I came back with this deficiency of \$160,000.

The CHAIRMAN. We gave you the estimates for 1904.

Mr. YERKES. 1903. If you do not give me this \$160,000 this class of employees out in your own districts will have to wait for their money for seven or eight months.

The CHAIRMAN. If this \$160,000 is allowed, that will avoid the condition that existed last year?

Mr. YERKES. Yes, sir; I think so. I will say very frankly that in going over the item and making up this estimate I differed from the division of my Bureau which had charge of it. They do not think \$160,000 will run us; I think it will. I want to say that I am asking for no deficiency on any other appropriation, and did not last year. While I do not think I had enough, I cut my garment according to the cloth that you gentlemen gave me.

REBATE OF TOBACCO TAX.

The CHAIRMAN. The next item is:

For the payment of claims for rebate of tax on tobacco, snuff, and cigars presented after the expiration of the sixty days' limit provided by the act of March 2, 1901, and prior to July 1, 1904, \$1,500, or so much thereof as may be necessary.

What is that?

Mr. YERKES. You remember in the act of 1901 ordering the rebate on unbroken packages of manufactured tobacco, snuff, etc., where you decreased the tax from 12 cents to 9.60, and then the act of 1902, when you again reduced the amount from 9.60 to 6 cents a pound, bringing it back to where it was prior to June 13, 1898, and you provided for a rebate to be paid to all of the holders of the unbroken packages of tobacco, snuff, cigars, etc., provided their claims were presented within sixty days after the 1st of July following the act.

Now, there were some few claims that were not presented within sixty days. There were some claims not presented. There were strong equitable grounds in a few of them that appealed to me to allow them, but in others it was simply negligence and carelessness. Bills were introduced in Congress, however, and passed directing the internal-revenue commissioner to examine the claims and where the proof was all right to allow them, notwithstanding they were not presented within the time. I am frank to say that I did not approve the passage of the bill, simply because I thought it was offering a premium for business negligence.

Mr. UNDERWOOD. Has Congress already passed the law?

Mr. YERKES. Yes, sir. I have examined the claims and have made a statement to the committee as to the amount required, and this is the amount.

PHILIPPINE CENSUS.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, April 6, 1904.

Hon. JAMES A. HEMENWAY,
*Chairman Appropriations Committee,
House of Representatives.*

DEAR SIR: I have the honor to transmit herewith a statement, compiled at the request of the Director of the Census, showing the history through successive appropriations of the unexpended balance of the census appropriation, and also the present condition of that fund. This statement is submitted to the Appropriations Committee in connection with the recommendation for the reappropriation of what remains of this fund. I may call your attention to the fact that it is estimated that this remainder will be about \$125,000 on July 1 next.

I also inclose, for the information of the committee, copy of a communication from Gen. Joseph P. Sanger, director of the Philippine census, in which he estimates that the cost of publishing that census, as now planned, will be \$123,000, practically equivalent to the amount remaining of the unexpended balance, the reappropriation of which is asked.

It will be clear to the committee that the publication of the Philippine census, either upon the scale proposed by General Sanger, or upon a basis considerably less expensive, will require the appropriation of this unexpended balance.

No provision whatever has been made in the legislative appropriation act or the sundry civil bill, now pending, for the expenditures necessarily incurred by the Bureau of the Census, under the order of the President, for the compilation and the publication of the Philippine census.

Under these circumstances the importance of reappropriating the unexpended balance will be apparent to the members of the committee and to Congress; but I beg to make the suggestion that if any question shall be raised about the propriety or the necessity of this reappropriation, the committee will call upon the Director of the Census for a fuller explanation of the situation than can be obtained from the papers herewith submitted.

Very respectfully,

GEO. B. CORTELYOU,
Secretary.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF THE CENSUS,
Washington, D. C., April 2, 1904.

Hon. S. N. D. NORTH, *Director of the Census.*

SIR: In accordance with your instructions, I have the honor to make the following report with reference to the history and present status of the unexpended balance of the appropriation entitled "Expenses of the Twelfth Census:"

The first appropriation for the Twelfth Census, which was for \$1,000,000, is contained in the act of March 3, 1899, providing for the taking of the Twelfth and subsequent censuses. Section 32 of that act is as follows:

"That for the organization and equipment of the Census Office to perform the preparatory work necessary to carry out the provisions of this act, the sum of one million dollars, to be available on the passage of this act, is hereby appropriated out of any money in the Treasury not otherwise appropriated, and to continue available until exhausted. (Of said appropriations, such amount as may be considered by the

Director of the Census to be necessary for immediate preliminary printing, may be expended under the direction of the Public Printer, and the Secretary of the Interior shall submit to the Secretary of the Treasury, on or before October first, eighteen hundred and ninety-nine, further estimates for the work herein provided for.)”

That portion of the foregoing section which is inclosed in parenthesis has since been repealed.

The sundry civil act, approved June 6, 1900, contained the following proviso, appropriating \$9,000,000 for taking and compiling the results of the Twelfth Census:

“EXPENSES, TWELFTH CENSUS.

“For salaries and necessary expenses for taking and compiling the results of the Twelfth Census, in accordance with the act of March third, eighteen hundred and ninety-nine, providing for the Twelfth and subsequent censuses, and amendments thereto, nine million dollars, to continue available until expended, including two thousand five hundred dollars per annum to the appointment clerk, which sum is hereby fixed as the annual salary of the office.”

The sundry civil act of March 3, 1901, contained the following proviso, making an additional appropriation for the same purpose:

“EXPENSES, TWELFTH CENSUS.

“For salaries and necessary expenses for taking and compiling the results of the Twelfth Census, in accordance with the act of March third, eighteen hundred and ninety-nine, providing for the Twelfth and subsequent censuses, and amendments thereto, three million five hundred and sixteen thousand two hundred and ten dollars, to continue available until expended.”

This made a total appropriation of the Twelfth Census work of \$13,516,210.

The sundry civil act of June 28, 1892, contained the following proviso:

“CENSUS OFFICE: The unexpended balance of the appropriation made by the sundry civil appropriation act approved March third, nineteen hundred and one, for salaries and necessary expenses for taking and compiling results of the Twelfth Census is hereby reappropriated and made available for continuing the work of taking the Twelfth Census, and for all expenses, including cost of all printing, arising under and authorized by the act to provide for a permanent Census Office, approved March sixth, nineteen hundred and two, including the purchase of necessary law books, books of reference, and periodicals, and manuscripts: *Provided*, that estimates in detail for the expenses of the permanent Census Office for the fiscal year nineteen hundred and four and annually thereafter shall be submitted in the regular Book of Estimates.”

The unexpended balance on June 30, 1902, reappropriated by the foregoing proviso, was \$1,871,327.97. The disbursements from this fund during the fiscal year beginning July 1, 1902, amounted to \$1,408,574.03. This left an unexpended balance on June 30, 1903, of \$462,753.94. The foregoing statements of balances represent the actual amount in the Treasury to the credit of the fund and to the credit of the disbursing clerk combined, and are, of course, exclusive of liabilities outstanding on the dates named, which were subsequently paid and which, of course, would have been a proper charge against the fund for the preceding fiscal year if they had been presented in time, thus reducing the balance on the dates named to that extent.

The general deficiency act of March 3, 1903, contained the following proviso, reappropriating this balance for the current fiscal year for the purposes therein indicated:

“TWELFTH CENSUS: The unexpended balance of the census appropriation, which, by the proviso in the act approved June twenty-eighth, nineteen hundred and two, entitled ‘An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes,’ was reappropriated and made available for continuing the work of taking the Twelfth Census, and for all expenses arising under and authorized by the act to provide for the permanent Census Office, approved March sixth, nineteen hundred and two, be, and the same is hereby, made available for the purposes indicated in said proviso during the fiscal year nineteen hundred and four; and that said balance, or so much thereof as may be needed for the purpose, be, and the same is hereby, also made available for such expenditures as may become necessary in complying with the proclamation of the President, dated September thirtieth, nineteen hundred and two, pursuant to the provisions of section six of the act of July first, nineteen hundred and two, entitled ‘An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,’ including the cost of temporarily employing such number of persons as may be necessary for the performance of said work, at a compensation not to exceed that which has heretofore been paid employees in the Census Office for doing similar

work, such persons to be selected and employed by the Director at such dates and for such periods of time as he may deem proper."

The actual expenditures from this fund to the close of business on March 31, 1904, amounted to \$245,438.81, leaving an actual balance on that date of \$217,315.13. These expenditures were distributed as follows:

For field work after the exhaustion of the \$160,000 appropriated for that purpose for the current fiscal year.....	\$63,664.76
For miscellaneous expenses after the exhaustion of the specific appropriation of \$15,000 for that purpose.....	4,007.30
Bills for purposes for which no specific appropriation was made and which were properly chargeable against the appropriation "Expenses of the Twelfth Census".....	177,766.75

The chief items in the total expenditure last named, for purposes for which no segregated appropriation was made, named in the order of their importance, are as follows:

Salaries of clerks carried on unexpended balance roll; field expenses incurred during the last month of the preceding fiscal year; expenses of printing and binding done before July 1, 1903, but paid afterwards, and per diem compensation of special agents employed in the office and therefore held to be not properly chargeable against the appropriation for field work.

The following are estimated expenditures from this fund that will be necessary during the remainder of the current fiscal year:

Salaries of the regular force on the unexpended balance roll and of the Philippine temporary force.....	\$47,000
Per diem compensation of special agents to collect the statistics of special classes.....	25,000
Per diem compensation of special agents on the regular roll who are to remain in the service during this period.....	12,000
Miscellaneous expenses which would be chargeable against the contingent fund if it were not exhausted.....	6,000
Traveling expenses necessary to complete field work in progress in the division of agriculture.....	1,000
Compensation of cotton-gin agents remaining unpaid.....	850
Total.....	91,850

This would leave an unexpended balance on June 30, 1904, of \$125,465.13.

Very respectfully,

JOHN W. LANGLEY, *Disbursing Clerk.*

APRIL 2, 1904.

Hon. S. N. D. NORTH,

Director United States Census, Washington, D. C.

SIR: In reply to your communication of March 28, 1904, which I understand to have been written at the suggestion of the Secretary of Commerce and Labor, I beg to say that an exact estimate of the data requested by you is quite impossible at this time. Speaking generally, I believe there will be about 2,500 pages of text in the report, more or less, which it is proposed to publish in four octavo volumes, so as to have it uniform with the reports of the censuses of Cuba and Porto Rico, and easy to handle. Taking the cost of their publication as a basis, I estimate that the cost of 12,000 English copies of the report of the Philippines, and 13,000 Spanish copies, will not exceed \$122,000, and of this amount about \$12,000 will be required for half tones, lithographs, and diagrams.

I regret that I can not be more exact in my estimate, but I think, from your experience in such matters, you will understand that at this stage of the work it would be quite impossible to do so.

In this connection I may say, that the three bulletins, prepared for the Philippine exhibit at the St. Louis Exposition, and already in the hands of the Public Printer, can go into the final report as they are, with some minor alterations, and that before May 15 I hope to be able to give you other portions of the text and illustrations, so that you may be able to utilize as much of the appropriation for the fiscal year ending June 30, 1904, as you may think advisable.

Very respectfully,

J. P. SANGER,

Major-General, U. S. Army, Retired, Director Philippine Census.

STATEMENT OF MR. S. N. D. NORTH, DIRECTOR BUREAU OF THE CENSUS.

The CHAIRMAN. We have just read the letter from the Secretary of Commerce and Labor and the letter sent by you to him. Now, as to the item on page 70 of the bill, "For the purpose of enabling the Bureau of the Census to complete the compilation and promulgation of the census in the Philippine Islands and such other statistical work as may be transferred to said office by the Secretary of Commerce and Labor, pursuant to the authority vested in him by section 4 of the act creating said Department, and for the other purposes named therein," the effect is to reappropriate the unexpended balance, which I understand is about \$125,000.

Mr. NORTH. Yes, sir; that is right.

The CHAIRMAN. Out of appropriations heretofore made for taking the Twelfth Census. Explain to the committee, if you have anything to offer in addition to what has been offered in the communications, for the necessity for this reappropriation.

Mr. NORTH. Mr. Chairman and gentlemen of the committee, I do not see how we shall be able to complete the Philippine census unless the reappropriation is made.

The CHAIRMAN. State briefly the law directing the taking of the Philippine census.

Mr. NORTH. The law is the law for the establishment of the Philippine Islands government. Under that law there was a provision that the census of the Philippine Islands should be taken by the Philippine Commission, and that thereafter the returns and schedules of the census might be forwarded to the Census Office in Washington if the President so ordered by proclamation, to be there compiled and published. The President issued that proclamation, and in accordance with it the whole body of schedules, covering population, agriculture, the mechanical industries, and the vital statistics of the Philippine Archipelago were sent forward to the Census Office and reached us in September last, and we immediately began work upon them.

We hoped when we first began the work that by reason of this unexpended balance we would be able to complete the compilation and the publication of the census without any increase in our regular force and within a reasonable period of time, but we found after the arrival of Governor Taft, now Secretary of War, in this country, that he had made certain statements to the Philippine people regarding the date as to when this census would be ready for publication, and it was found in consultation with him that what he had said in that regard could not be complied with without a temporary increase in the force, which was accordingly made—150 clerks.

We now expect, without any difficulty whatever, to be able to promulgate the result of this census by the time which Governor Taft stated in his addresses to the Philippine people, which was about the 1st of October, I regarding the publication of the main facts concerning the population upon which would be based a scheme for representative government in bulletin form to be a compliance with the letter of the law establishing the Philippine government, leaving the complete published volume to follow at a later date, and in accordance with the convenience of the director of the Philippine census. There is a director of the Philippine census who is working in the office independently of me, and who has charge of the whole detail of the tables

and the text of that census, and who is not in any sense of the word under my authority. He simply tells me what he wants done in the way of compilation—the character of the tables he desires—and I carry out his instructions.

The CHAIRMAN. By whom is he appointed, how paid, and what were his duties heretofore?

Mr. NORTH. Major-General Sanger, retired, was appointed by the War Department to take the census of Cuba and the census of the island of Porto Rico, both of which censuses were published by the War Department, and the compilation of both of these censuses was undertaken by the War Department and was given out, as I understand it, by contract. General Sanger was selected to take the Philippine census—to do the work of the Philippine census—because of his experience in those two previous insular censuses. I am not aware what his compensation for that work is, but he went on the retired list on the 1st of July last, and he is now devoting his entire time to this work.

The CHAIRMAN. He is the officer in charge in your office now?

Mr. NORTH. Yes, sir.

The CHAIRMAN. He directs you what to do, and he gets the pay as Director-General of the Census from the funds of the Philippine Commission?

Mr. NORTH. Yes, sir.

The CHAIRMAN. Do I understand that if we reappropriate this unexpended balance that you would take care of the expenses of this work for the next fiscal year?

Mr. NORTH. We would be bound to make it do so. Of course, the work will all be out of the way before you are called upon to pass any more appropriation bills. If you have read the letter of General Sanger, which was submitted by the Secretary, you will find that his estimate of the cost of printing his census are alone almost enough to eat up what remains of the unexpended balance, which is \$125,000, and his estimates call for \$123,000. Under these circumstance, and in order that we may pay such other expenses as are necessary to be incurred in the compilation, the clerical force required to put it in order, and the rent of the tabulating machines by which we are compiling it, we have to cut his estimate down and bring it within the limit of what remains of the unexpended balance.

The CHAIRMAN. If we reappropriate this unexpended balance, we would take care of your service satisfactorily to you?

Mr. NORTH. Yes, sir; entirely so.

IMMIGRATION SERVICE.

STATEMENT OF MR. F. P. SARGENT, COMMISSIONER-GENERAL.

The CHAIRMAN. The first item is—

For the following additional clerks for the balance of the fiscal year 1904, namely: One clerk of class 3; 2 clerks of class 2; 2 clerks of class 1, and 2 clerks at the rate of \$1,000 per annum each; in all, \$2,200, to be paid from the appropriation "Expenses of regulating immigration."

NOTE.—The large increase in the volume of work allotted to this Bureau by reason of the enactment of the more rigid immigration law approved March 3, 1903, and consequent increase in the service at large makes additional clerical help imperative. The increase of seven clerks, as above specified, has already been appropriated for from July 1, 1904, but the need of immediate availability is pressing and urgent.

That is so?

Mr. SARGENT. Yes, sir; that correctly states our situation. We have clerks here now detailed from Ellis Island—that is, temporary details—in order that we can carry on our work.

Mr. BURKETT. Why, have they more clerks over at Ellis Island than they need, and can transfer some here?

Mr. SARGENT. They have not more than they need, but in view of the situation we are compelled to get relief and we have to draw on our force at Ellis Island or at other points temporarily to relieve the condition here.

Mr. BURKETT. This is more imperative than that?

Mr. SARGENT. Yes, sir.

The CHAIRMAN. The next item is—

To reimburse William Williams, commissioner of immigration at the port of New York, for amount paid by him to William B. Anderson for legal services furnished to the Government by the latter as counsel in the case of Isabella Gonzales against William Williams, the services of regularly employed counsel for the Government not having been procurable, to be paid from the appropriation for "Expenses of regulating immigration," \$250.

What about that item?

Mr. SARGENT. That is the celebrated Gonzales case in connection with Porto Rico and citizenship. This woman came as an alien, and she was held for deportation. The case came up on habeas corpus, and finally before the Supreme Court, it became necessary to employ counsel. The Department of Justice could not furnish counsel at that time. It was supposed that when this expense was incurred it would be readily paid from the immigration fund, and Mr. Williams was authorized by the Secretary of the Treasury to obtain counsel, which he did, which was afterwards disallowed by the Comptroller on the ground that it could not be paid from the immigration fund, and Mr. Williams was compelled to pay for it out of his pocket.

The CHAIRMAN. Did Mr. Williams call upon the Department of Justice to furnish counsel?

Mr. SARGENT. Yes, sir.

The CHAIRMAN. What was their ground of refusal?

Mr. SARGENT. They had so much business that it was impossible to give attention to the case that was necessary in order to carry it up in a proper way and to have a proper presentation of the immigration side of it.

The CHAIRMAN. The next item is "For salary and expenses, including additional compensation in lieu of subsistence, of Frank S. Howell," etc. That is to cover the case where the Civil Service Commission held that you had no right?

Mr. SARGENT. Yes, sir; this gentleman was transferred to Washington in order to do a certain specific character of work, and they held the account up on the civil-service ruling.

The CHAIRMAN. He did the work?

Mr. SARGENT. Yes, sir. He is in our service at the present time.

The CHAIRMAN. And he is entitled to compensation?

Mr. SARGENT. Yes, sir.

The CHAIRMAN. You have now complied with the rule of the Civil Service Commission?

Mr. SARGENT. Yes, sir; we complied just as rapidly as we could.

Mr. BURKETT. He could not draw his regular salary on account of he transfer?

Mr. SARGENT. No, sir.

The CHAIRMAN. And you have permission from the Civil Service Commission to go ahead with your business?

Mr. SARGENT. He has finished the work, and has gone back.

The CHAIRMAN. The next item is the same kind of an item?

Mr. SARGENT. Mr. Stump, the immigrant inspector, was brought to Washington for the benefit of the Civil Service Commission, and after we had brought him over here and they had had his services his accounts were disallowed.

The CHAIRMAN. And in regard to Mr. Howard—he is suffering under the same trouble?

Mr. SARGENT. I want to explain. Mr. Howard has been in the service a long time, and stationed at Montreal. He was in the service and was dangerously ill with spinal trouble, and the doctor said he must come to Washington for treatment. I took an officer from the service here in Washington who was doing the same character of work as Mr. Howard, and transferred him to Montreal and transferred Mr. Howard here, and Mr. Howard went under treatment here and performed statistical work in the Bureau while under treatment. Then he was sent to his station at Tampa, where he is now, and they claimed that that was a violation of the civil-service regulations—that he could not be transferred here.

Mr. BURKETT. There is no effort to invite a fellow to come and spend a few weeks in Washington?

Mr. SARGENT. No, sir; not at all.

The CHAIRMAN. The next item is "To refund to R. W. Young, master of British steamship *Linda*, the sum of \$80 erroneously collected from him at Tampa, Fla., and covered into the Treasury for an alleged infraction of sections 12, 13, and 14 of the immigration act approved March 3, 1902." What did they do?

Mr. SARGENT. That was \$80 collected for head tax which was afterwards found should not have been collected. That is a question that comes up under the Porto Rican matter. I have not it just in mind, but I think that is the case where we collected the head tax and it was covered into the Treasury and it afterwards developed for some reason that it should not have been collected, and of course to refund it we have to get the authority. I can furnish the committee with the papers if they desire them.

IMMIGRATION STATIONS, REPAIRS OF.

The CHAIRMAN. The next item is—

For amount actually and necessarily required for repairs to buildings at Ellis Island, New York, fiscal year 1904, to be paid from the permanent appropriation for "Expenses of regulating immigration," \$100,000.

Mr. SARGENT. That arose on account of the language to which I called your attention. The Comptroller having decided that we could only supply a certain amount, which was \$20,000, and all these accounts for improvements and repairs, necessary repairs to machinery and the plant, have been held up by the Auditor on the ruling of the Comptroller, and I think, Mr. Chairman, that you have a letter on that subject from the Comptroller. This is to meet the deficiency. We are asking for this appropriation of \$100,000 to meet the conditions which arose last year from his decision.

The CHAIRMAN. How much of the \$100,000 have you obligated now?

Mr. SARGENT. Nearly the whole amount. We stopped every repair

that we could possibly stop when the decision came from the Comptroller.

Mr. BURKETT. Do you know how much will be for repairs?

Mr. SARGENT. I can furnish the figures.

Mr. BURKETT. Are they new buildings?

Mr. SARGENT. No, sir. We had to make some alterations in order to meet the congested conditions, and we had understood that we could go on, but this year we ran up against this phraseology and the Comptroller held up all the accounts. For instance, if our machinery broke down we had no means of repairing. For instance, when the storm occurred at the time of the visit of the President there were several hundred dollars worth of repairs, and under his ruling we could not have gone ahead and done the work which was absolutely necessary to protect the property. We did the work, but the bill has not been paid.

[Telegram.]

APRIL 8, 1904.

Hon. ROBERT J. TRACEWELL,
Comptroller of the Treasury:

If the following provision is enacted on the general deficiency bill can expenditures thereafter be made for ordinary current repairs to immigrant stations as if no specific appropriation had ever been made therefor?

"The authority to incur expenditures under the appropriation for 'Expenses of regulating immigration' shall be construed by the accounting officers of the Treasury without reference to the specific appropriation of \$20,000 for 'Sundries, additions, repairs, and alterations to the Government property at Ellis Island' made by the sundry civil appropriation act for the fiscal year 1904."

J. A. HEMENWAY.

[Telegram.]

Hon. J. A. HEMENWAY, *House:*

If there are no other specific appropriations than the one you mention for repairs to immigrant stations I think the language referred to would have the effect proposed. If you would add thereto "or any other specific appropriation for repairs or alterations to any immigrant station" I think it would be free from doubt.

R. J. TRACEWELL, *Comptroller.*

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, April 8, 1904.

Hon. JAMES A. HEMENWAY,
Chairman Committee on Appropriations, House of Representatives.

MY DEAR SIR: Referring to my telegram of yesterday concerning the use of the immigrant fund for ordinary repairs to buildings at Ellis Island for fiscal year 1905, I forgot to direct your attention to language contained in sundry civil act of March 3, 1903 (see Digest of Appropriations, p. 94), and no doubt repeated in appropriation bill for year 1905.

If the buildings at Ellis Island are public buildings under the control of the Treasury Department, it would appear that the appropriation "Repairs and preservation of public buildings" therein made, are exclusive, unless excepted by appropriate language.

I inclose you copy of a decision made by me on August 22, 1903.

Yours, truly,

R. J. TRACEWELL, *Comptroller.*

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, August 22, 1903.

Mr. WILLIAM L. SOLEAU,
Disbursing Clerk, Department of Commerce and Labor.

SIR: In your communication of August 7, 1903, you request my decision of questions which you present as follows:

"I have the honor to inclose the following vouchers for your decision as to the

appropriation from which they are properly payable, and whether they should be paid upon the recommendation of the Architect of the Treasury, or the Commissioner-General of Immigration.

Edgar P. Reynolds, for furnishing and setting at the temporary barracks, Ellis Island, New York, galvanized iron partitions and wire screens, ventilators; also guards on windows, doors, and transoms, all as per contract..... \$2,095.00

G. E. Loebble:

Plumbing at detention barracks as per contract 2,189.00
Less credit for 3-inch galvanized pipe, etc 13.63

2,175.37

G. E. Loebble, work on lavatories in detention barracks 43.66

John O'Leary, for additional supply of loam for lawns as per contract, 1,881 yards loam at \$2.35 4,420.35

T. E. Quinn, for part payment on contract for outside painting at Ellis Island 1,000.00

Wm. F. Holding:

Interior painting and plaster-board covering for the new barracks erected at Ellis Island 800.00
Installing new pipe trenches, plank boxes and tile drains 300.00
Additional pipe and trench boxes 94.00
Painting 24 window sashes 6.00
Painting bed stanchion strips in barracks 22.00

"I believe that these accounts should be paid out of either the appropriation made in the deficiency act July 1, 1902, under the head of 'Immigrant Station, Ellis Island, New York,' or the appropriation in the sundry civil act March 3, 1903, under the title, 'Immigrant Station, Ellis Island, New York.'

"Your decision is respectfully asked on these questions. And further, your decision is also asked as to whether these accounts should be paid through the disbursing officer of the Treasury Department or the disbursing officer of the Department of Commerce and Labor."

The act of March 3, 1903 (32 Stat., 1084), contains the following items of appropriation:

(1) "Ellis Island, New York, immigrant station: For an extension and additions to the present hospital on Ellis Island, one hundred thousand dollars;"

(2) "For the construction or purchase of a steel twin-screw ferryboat, one hundred and ten thousand dollars;"

(3) "For sundries, additions, repairs, and alterations to the Government property at Ellis Island as from time to time, in the judgment of the Secretary of the Treasury, may be deemed necessary, twenty thousand dollars;"

(4) "For construction of a new island near Ellis Island, one hundred and fifty thousand five hundred dollars; in all three hundred and eighty thousand five hundred dollars, which sum shall be paid out of the immigrant fund."

These items of appropriation are made under the headings "Under the Treasury Department" and "Public buildings."

But I think it is clear that the objects for which appropriations are made in items numbered 2, 3, and 4, above, are not public buildings, and that therefore the appropriations therefor should not be regarded as appropriations for public buildings under the control of the Treasury Department, but as appropriations pertaining to the immigration service.

The act of February 14, 1903 (32 Stat., 825), having transferred the immigration service and all unexpended appropriations therefor from the Treasury Department to the Department of Commerce and Labor and having conferred upon the Secretary of Commerce and Labor the "jurisdiction, supervision, and control" over the immigration of aliens into the United States, these items of appropriation must now be regarded as under his control.

I have therefore to advise you that the expenditures indicated in the vouchers transmitted by you, if otherwise correct, are properly payable from the appropriation for the objects specified in item 3, supra, upon the approval of the Secretary of Commerce and Labor.

Respectfully,

R. J. TRACEWELL, *Comptroller.*

MILITARY ESTABLISHMENT.

PAY OF THE ARMY.

STATEMENT OF BRIG. GEN. FRANCIS S. DODGE, PAYMASTER-GENERAL, U. S. ARMY.

The CHAIRMAN. General, will you please turn to page 35 of the bill before you, to the item for "Pay of the Army?" First, for pay of officers of the staff and line, \$600,000, and then for pay of enlisted men, \$900,000; "in all, \$1,500,000, to be paid out of the unexpended balance of the appropriation 'Pay, and so forth, of the Army' for the fiscal year 1902, which is hereby reappropriated for said purposes." Do you have anything to offer in addition to the note which is attached below?

General DODGE. Very little, sir, except to make some slight explanation. The situation is just about like this: The appropriation for 1904 amounted to \$28,121,561. The soldiers' deposits, received and estimated until the end of June, amount to \$1,500,000. Paymasters' collections, that is refundments, would probably amount to about \$400,000, giving in all \$30,021,561. The average monthly disbursements during the year so far have been about \$2,175,000. That would take \$29,700,000 to pay the Army during the current fiscal year, and would leave a balance of \$321,561.83. Now, I do not think—and I have made this matter a subject of pretty careful study—that one dollar of this additional appropriation will be needed to pay the Army during the entire year; but we do need a working balance. For instance, it may be necessary to send a half or three-quarters of a million dollars over to Manila before the 1st of July, and we have not got the money to do it in the current appropriation. Of course, after the 1st of July we have got to have cash there to make payments with, and the surplus of the appropriation is not sufficient to do it; that is, it is necessary to keep a working balance in the hands of the paymasters. We have 51 paymasters now disbursing money, with a surplus of only \$321,000. The working balance would be reduced to about \$600, and that is altogether too small.

The CHAIRMAN. You figure, as I understand, that there will be on hand, of the current appropriation for the coming fiscal year, at the end of the year \$321,000?

General DODGE. Yes, sir.

The CHAIRMAN. But with the money scattered in the hands of the different paymasters?

General DODGE. Yes, sir.

The CHAIRMAN. That is not a sufficient balance to have on hand?

General DODGE. It is not a sufficient balance to make everything work out smoothly.

The CHAIRMAN. You think, to make that balance right, you need this \$600,000 reappropriated from the balance of 1902 for the pay of officers of the staff and line and \$900,000 for enlisted men?

General DODGE. Yes; and under the terms of the appropriation bill—the army appropriation bill—that money is available for any other purpose.

The CHAIRMAN. It is available for any other purpose until expended?

General DODGE. Yes; such as enlisted men, commutation of quarters, travel pay, etc.

The CHAIRMAN. How much of the appropriation have you for 1902? Does this note show?

General DODGE. I can not tell you exactly.

The CHAIRMAN. It shows there is a balance of \$5,887,210.70, so that as a matter of fact this money, in all probability, will not be used; but you think it advisable to have it on hand in case of an emergency?

General DODGE. We want to have it on hand until we get through the disbursements. It is still available for use by the Pay Department. It is only changing it from one appropriation to the other temporarily.

Mr. VAN VOORHIS. Without this deficiency, which would give you a working balance, in shipping money to make your payments in Manila, say, for July, you would not have any money to use? That is, you could not use the money appropriated for July for earlier shipment?

General DODGE. No, sir; I can not get that out of the Treasury until about the 8th or 10th of July.

Mr. VAN VOORHIS. You would have to make that shipment in June?

General DODGE. Yes; of this year's fund, and make a debit transfer of it.

Mr. UNDERWOOD. You say this money which we appropriate for deficiencies, under the terms of the Army bill can be used for other purposes?

General DODGE. Yes, sir.

Mr. UNDERWOOD. Will you state the other purposes which they can be used for?

General DODGE. Everything in the Army appropriation bill for the current year is disbursed under one head as pay of the Army. Mileage is paid out of the current appropriation, and commutation of quarters and travel pay to enlisted men, clothing undrawn, the pay of paymasters' clerks and messengers, and in fact all the items given in under one head. There is but one head. Even mileage comes in under the head of the pay of the Army this year.

The CHAIRMAN. All in the Pay Department?

General DODGE. Yes; all disbursements are in the Pay Department, except at the Military Academy. The bill for 1905 is different.

Mr. UNDERWOOD. Is the limitation placed on that?

General DODGE. Yes, sir.

Mr. UNDERWOOD. Do you need this appropriation except for actual pay of the Army?

General DODGE. We do not need it, except to give us a little working balance?

Mr. UNDERWOOD. If it is limited simply to a working balance to pay the Army and Navy, that would cover all you want?

General DODGE. That would cover all we want, I think. In 1875, for instance, the appropriations ran short, and the only way the men could be paid for that year was for them to deposit one-half of their pay for May, and, say, June. Again in 1897 the appropriation ran short, and it took three or four months to clean the thing up. I happened at that time to be paymaster of the Department of Texas. We first paid one post and got the money in in little dribblets, and I think it was December before the June rolls were paid. We desire simply to get a little money to avoid that condition.

REGULAR SUPPLIES.

STATEMENT OF LIEUT. COL. GEORGE E. POND, ASSISTANT QUARTERMASTER-GENERAL, U. S. ARMY.

The CHAIRMAN. On page 35 of the bill before you there, Colonel, is the item for "Regular supplies, Quartermaster-General's Department, including all objects under this head in the Army appropriation act for the fiscal year 1904, \$500,000." What balance have you on hand of that fund now?

Colonel POND. \$596,862.66. That is the balance undrawn from the Treasury.

The CHAIRMAN. What is the occasion for the deficiency of \$500,000?

Colonel POND. Well, sir, that makes an entire remittal so far of \$4,403,137.34, and for the nine and one-half months it is an average of \$463,000 a month. If we take that average for the next two and one-half months, it will be \$1,157,500, from which, deducting this balance that we now have, it will make a deficiency of \$516,638. We have called for reports from all our disbursing officers, from the depot officers of the Chief Quartermaster's Department, to make an estimate of the amount of money they will require for the next four months of the fiscal year, and these amounts are stated in another column which I have here. For instance, the balance in the Treasury undrawn on February 27, 1904, after filling most of the estimates for the first eight months, was \$1,099,051.79. These reports which have come in from the disbursing officers show that they will require \$1,556,089.62, which is an apparent deficiency of \$457,037.83. The authorizations which we have already made—considerable in amount—must necessarily issue before the close of the fiscal year, and this would bring the deficiency even beyond the \$500,000 which we ask for. But we have certain funds which will be deposited, which come in from sales of forage and fuel, and we estimate that with the \$500,000 we can carry out the work which has already been authorized.

The CHAIRMAN. Now, I notice this appropriation in the Army appropriation act for the current year: "Regular supplies: Regular supplies of the Quartermaster's Department, including care and protection, consisting of stoves and heating apparatus supplied for heating offices, hospitals, barracks, and quarters," etc. Who determines when these supplies are purchased and what they shall consist of?

Colonel POND. The Quartermaster-General.

The CHAIRMAN. What decrease has there been in the Army in the last year or two years?

Colonel POND. I can not tell you that, sir.

The CHAIRMAN. Not exactly, but approximately.

Colonel POND. The Army now numbers some 60,000 men.

The CHAIRMAN. It strikes me as unusual, in view of the fact that the Army has been greatly decreased and you had \$5,000,000 for that purpose for the present fiscal year, that you have not kept within the appropriation.

Colonel POND. The Army has been decreased in the enlisted men, but we require exactly the same quarters and the same heating and lighting, because that is fixed for the increased number of men. We have the same number of animals at the posts and we have to have the same amount of forage. There would be a very little decrease in the

fuel, because it is the space that has to be heated and not the number of men. Colonel Bellinger suggests to me that new posts have been built and barracks have increased beyond what they were before. Each year they are increasing. We had barracks and quarters sufficient for 25,000 men in 1898, and now we have much more space—more quarters and more barracks.

The CHAIRMAN. How many men can you accommodate now?

Colonel POND. Well, sir, we have four regiments in cantonments for lack of quarters in the United States.

The CHAIRMAN. Where are they?

Colonel POND. They are in San Francisco and Monterey, and I think there is one regiment up in Vancouver, up in the Department of the Columbia, and at Chickamauga Park; the Seventh Cavalry likewise.

The CHAIRMAN. Yet in 1898 you had quarters for 25,000 men?

Colonel POND. Yes, sir.

The CHAIRMAN. We have been expending money at the rate of about \$7,000,000 a year for the last four or five years, and yet that has not secured sufficient additional quarters so as to take care of the 25,000 additional men in the Army we have in the United States?

Colonel POND. We are building permanent quarters now. Before that the Army was largely on the frontier, in temporary quarters—in cheap wooden buildings. These are now mostly abandoned, and it is the policy of the Government to build permanent quarters that will last for all time—brick and stone buildings.

The CHAIRMAN. So that in 1898, when you quartered the 25,000 men, some were quartered in the temporary quarters on the frontier?

Colonel POND. A large proportion of them; and since that time fortifications have been built along our seaboard and quarters have had to be provided for the garrisons, and with the modern armament it requires that the garrison shall live near the fortifications. In the old times troops would be quartered at Atlanta, or some place like that, and a mere guard was left in the fortifications. There were no accommodations for the men except in the casemates, which in old times we put them in, but now it is not considered sanitary or proper to do.

The CHAIRMAN. In spending money at the rate at which you are now spending it out of this appropriation it will require the full \$500,000 to meet your expenses up to June 30?

Colonel POND. Yes, sir.

Mr. BURKETT. What would happen if you did not get it?

Colonel POND. Well, sir, the machinery would be very much deranged. We would have a lot of bills and claims against the Department. We have let contracts for forage and fuel, and if we have not the money we could not pay those claims and just dues. We have a number of heating and lighting plants going into these buildings that would have to be abandoned for the time being, if we did not get the money.

Mr. BURKETT. You could do that better than stop your forage and supplies to the men?

Colonel POND. These forage contracts have already been let, and would have to be met, as the contractor has a just claim.

Mr. BURKETT. You go ahead and make those contracts for supplies without regard to the amount of money which the Committee on Military Affairs appropriates?

Colonel POND. No, sir; we do not do that. A great deal of this can not be foreseen. This is an immense establishment, and there are incidents which happen that can not be foreseen. For instance, the coal strike made a great difference in our fuel. We contracted for fuel at a reasonable rate, and when the anthracite strike came on we could not get our fuel and the contractors canceled their contracts, and we had to go out into the markets and buy it at the exorbitant prices that obtained at that time. Of course these contractors who threw up their contracts will be sued, but in the meantime we have to pay out our money which may come back or may not. Probably the juries will render verdicts in favor of the contractors.

Mr. BURKETT. If you are short this amount of money it has got to be paid somehow; is that it?

Colonel POND. Yes, sir.

The CHAIRMAN. You put in heating and lighting plants out of this appropriation?

Colonel POND. Yes, sir; heating the buildings and lighting them. We formerly lighted our buildings with kerosene oil. It is the cheapest illuminant there is, but it is very destructive to buildings and dangerous for fire; and in all modern new buildings we are putting in modern electrical and gas plants.

The CHAIRMAN. Under the army bill you can expend \$20,000 in the construction of a building?

Colonel POND. Yes, sir.

The CHAIRMAN. I notice that for this coming fiscal year, provided for by the bill that just passed the House and Senate a few days ago, the bill carried for this particular item, as passed the House, \$4,800,000, and that amount was increased by the Senate to \$5,000,000.

Colonel POND. Yes, sir.

The CHAIRMAN. Do you remember what the estimate was for that?

Colonel POND. It was \$5,900,000.

The CHAIRMAN. Will this expense decrease or increase during the next fiscal year?

Colonel POND. It will remain about the same. I do not anticipate any great increase, and I can not see any decrease.

The CHAIRMAN. Have you expended an unusual amount in putting in heating and lighting plants during the present fiscal year?

Colonel POND. No, sir; not more than for the past four or five years, since the beginning of the construction of these new posts—these artillery posts.

The CHAIRMAN. Well, you send us down, please, a statement showing just how much you have expended up to date during this fiscal year for heating and lighting purposes, unless you can give it now.

Colonel POND. Yes, sir.

Colonel RUHLEN. I could not give it offhand, but I could get it.

Colonel POND. We had \$400,000 deficiency last year. I would like to say we have in the appropriation of 1902 over \$3,000,000, and it is a request to reappropriate from that appropriation. We have \$3,276,644 of the regular supplies appropriation of 1902 that has been turned into the Treasury or will be.

The CHAIRMAN. It has not been turned in yet?

Colonel POND. It goes in on the 30th of June. It reverts to the Treasury on the 30th of June.

The CHAIRMAN. On pages 36 and 37 you want to make immediately

available, out of the moneys appropriated for the next fiscal year, under the appropriations for regular supplies \$250,000, and under the appropriation for Army transportation \$500,000, and under the appropriation for barracks and quarters \$250,000?

Colonel POND. Yes, sir; that comes under Colonel Ruhlen. He has charge of that.

The CHAIRMAN. The regular supplies; that is—the item we have just been talking about?

Colonel POND. Yes, but Colonel Ruhlen has charge of that division of construction and repair.

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
Washington, April 11, 1904.

The CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS,
House of Representatives, Washington, D. C.

SIR: In accordance with your request of the 9th instant, I have the honor to submit for the information of your committee the following report of cost of heating and lighting plants constructed and authorized at military posts, from the appropriation for regular supplies, for the fiscal year ending June 30, 1904, viz:

HEATING PLANTS.

Cost of alterations, repairs, and extensions to existing heating plants in buildings at posts.....	\$36,761.10
Cost of heating plants in new buildings authorized and under construction.....	301,540.86
Cost of heating plants in new buildings authorized (not yet under contract), estimated.....	168,000.00
Total for heating.....	506,301.96

LIGHTING PLANTS.

Cost of alterations, extensions, and repairs to existing plants.....	\$22,213.46
Cost of lighting plants at posts not heretofore provided with same and in new buildings authorized and under construction.....	286,350.04
Cost of plants authorized (not yet placed under contract), estimated...	61,000.00
Total for lighting.....	369,563.50

RECAPITULATION.

Total for heating.....	\$506,301.96
Total for lighting.....	369,563.50
Aggregate.....	875,865.46

Very respectfully,

C. F. HUMPHREY,
Quartermaster-General U. S. Army.

TRANSFER OF APPROPRIATIONS, QUARTERMASTER'S DEPARTMENT.

**STATEMENT OF LIEUT. COL. GEORGE RUHLEN, ASSISTANT
QUARTERMASTER-GENERAL, U. S. ARMY.**

Colonel RUHLEN. The purpose in asking that this money be made immediately available was to combine next year's construction work in part with this—that is to say, so that we could get a certain part of

our work out in the early season. If this next year's appropriation will not be available until after July 1 we will have to delay our contracts until that time. If we had it now we would send out our invitations to invite bids, and would get the benefit of probably two or three months of the building season. It was not to increase the appropriation, but simply to be able to use certain parts of it before the ordinary fiscal year begins. Since that came up, quite recently a very good example of that has come up. The War Department has found it necessary to increase the accommodations for troops in Alaska. There the building season is exceedingly short. If we do not get the money to buy the material for that—it has all to be bought and shipped up—the best part of the navigation season will be gone.

The CHAIRMAN. What portion of this would be used in Alaska?

Colonel RUHLEN. We expect to use in Alaska altogether about \$150,000. It would be largely barracks and quarters. Probably \$125,000 of it would be barracks and quarters, and the remainder would go between the other two appropriations. But there are a number of northern posts where we would like to get the full benefit of the working season.

SHOOTING GALLERIES AND RANGES.

The CHAIRMAN. For shooting galleries and ranges—do you have that item?

Colonel RUHLEN. To some extent; that is, the estimates come to our office.

Mr. UNDERWOOD. I would like to ask, Is this merely for practice shooting galleries and ranges?

Colonel RUHLEN. Yes; at posts for small-arms practice.

Mr. UNDERWOOD. Why is it necessary to have a deficiency in that at all? Why do you not limit that to what Congress appropriates?

Colonel RUHLEN. That is one of the hardest matters we have to deal with. They are beginning to become very urgent for proper facilities at the posts for small-arms practice, and as a matter of fact there are very few posts where we have those facilities.

Mr. UNDERWOOD. I am not criticising the necessity of it or the use of it, but you could dispense with it entirely and the Army would still exist? Why can not it be limited absolutely by the amount allowed by Congress in the original bill? Why should there be a deficiency?

Colonel RUHLEN. It cripples the service, but it could be limited.

The CHAIRMAN. The note says:

This amount is asked for the construction of a rifle range at Fort Des Moines, Iowa, for use of the proposed garrison of one regiment of troops. The entire amount appropriated for shooting galleries and ranges for this fiscal year has been already apportioned among the different departments, and I recommend that the amount proposed to be appropriated for the next fiscal year be increased by the sum now estimated for.

Mr. UNDERWOOD. It is really not a deficiency, Mr. Chairman, but it is a new allowance that we are considering—the allowance allowed by the Military Committee. It seems we are exceeding our jurisdiction.

The CHAIRMAN. What is the necessity of the range at this particular place?

Colonel RUHLEN. It is a new post, now recently established, and it was not included when the estimate was made, which was made about September last. It has come up since then.

The CHAIRMAN. And now the post is not complete without this shooting gallery and range? In other words, the troops stationed there can not practice at all without this?

Colonel RUHLEN. Not unless we have something to fix up the ground with.

Mr. BURKETT. Why do you not go ahead and make an apportionment?

Colonel RUHLEN. That is a question I can not answer. It is only the financial part of this that our office deals with. They state what they need, and we have to manage the financial part of it. We have nothing to do with preparing the estimates. We simply have to take them when they come in.

CONFEDERATE SOLDIERS' CLAIMS.

STATEMENT OF MAJ. J. B. BELLINGER, QUARTERMASTER, U. S. ARMY.

Major BELLINGER. I understand, Mr. Chairman, you want to know something about that \$125,000 for these Confederate horse claims.

The CHAIRMAN. Are you buying all the horses in the South—all that you formerly had down there?

Major BELLINGER. We have begun.

The CHAIRMAN. Now tell us about that item. It is on page 28.

Major BELLINGER. You appropriated about \$50,000 two years ago. I took charge of this thing here last July or August, and we have been corresponding a good deal since to help out all the Congressmen. Apparently the history of the case is this: Senator Bate wanted to get all those Strawberry Plains troops paid, and the original appropriation was made, as I understand it, with that object in view; and then all the other people started in to make claims, and then you appropriated a second \$50,000 last year. In that bill there was a provision that all claims must be filed within a year from the 1st of March. During that time they began to send in claims, and we have had, all told, 1,702 claims. We have expended all but \$59.30 in paying 746 of them.

The CHAIRMAN. Were these 1,702 filed within the time fixed by the law?

Major BELLINGER. Yes. They are just discovering in certain sections of the country that people are being paid, and since the 1st of March we have had 51.

The CHAIRMAN. When does this limit run to?

Major BELLINGER. The 1st of March, 1904. Now we are simply telling them it is barred, but this \$125,000 is necessary to pay the claims that were on file before that date expired. Then we notified both Mr. Padgett and Senator Bate, and suggested that they get another appropriation as before. But Mr. Padgett said the Appropriations Committee said that was new legislation, and it was really a deficiency on a former appropriation, and they had better put it in the deficiency; and he saw the Secretary, and the Secretary instructed the Quartermaster-General to put it in the deficiency estimates. We could figure out within a very few thousand dollars what it would take to pay these claims.

Mr. UNDERWOOD. These claims that this money is appropriated to pay were properly filed under the law legally?

Major BELLINGER. Yes; all legally filed before the 1st of March, and 270 of them have been actually passed upon and approved, and 259 are in the course of correspondence. By that I mean we examine the claims, and if there are any questions we write about them and lay the claims aside; and we still have at this time 372, which makes a total of 901 of these claims now on file in the office, which, if proved, will have to be paid.

The CHAIRMAN. How many do you say have already been proved?

Major BELLINGER. Of the 901?

The CHAIRMAN. Yes.

Major BELLINGER. Two hundred and seventy; but that is a matter of detail. As we go along each day we have more approved.

The CHAIRMAN. What do you make them prove?

Major BELLINGER. We make them prove that they belonged to the organization to which they alleged they belonged, and that they were paroled, and that they actually owned the animal, equipment, and baggage, and it was taken from them by the Federal troops in violation of the terms of the surrender. They must have used the animal and equipment in performing their duties. There have been a number of people who put in claims for animals taken from their farms by Federal troops; but those we disallowed. It was left with the Department to handle the proposition and regulate it. So that we took the stand that the bill was intended to pay for horses that were actually used by them as soldiers, so that unless they were actually used by them in their duties we did not consider them.

The CHAIRMAN. How do you fix the value?

Major BELLINGER. On approximately what we paid for horses under contract, \$125, and then we figure out the value of side arms. We allow that only to officers, because the enlisted men were supposed to use arms belonging to the Confederate government. In other words, the officers and enlisted men are treated just as we treat the officers and enlisted men of the Army to-day, and we reimburse the officer for two animals and the private for but one, on the same basis as we have to-day. The officer draws forage for two horses, and he is supposed to own them; and he is supposed to own his side arms.

The CHAIRMAN. Why don't you make him prove the ownership?

Major BELLINGER. We make him prove that he used that animal or animals, and in the performance of his duty.

Mr. BURKETT. What is the nature of your proof?

Major BELLINGER. The man files his statement in the claim in the form of an affidavit, stating what his organization was, and if he has his parole, he furnishes his parole with it. If he has not got it, and says it is lost, we demand proof, and then we send it down to the Record and Pension Office and find out if he is on the rolls of the organization he claims to have belonged to, and if the rolls show that that man belonged to it, but he has nothing to show he was paroled and they have rolls or papers in the Record and Pension Office showing that, we consider that case proved at once. The rolls in the Department, however, are recognized as being very incomplete, and if the rolls do not show that he belonged to the service he claimed we then require the affidavits of two other men, preferably confederate soldiers, to the fact that he belonged to the organization he names. Often we find that the names of men giving the evidence as belonging to the organization are on

some roll or portion of a roll in the Record and Pension Office, whereas the name of the man making the claim may not be on it.

Mr. BURKETT. How do you prove that the Federal soldiers took the horses?

Major BELLINGER. That is proven in this way: They must have witnesses to the fact, preferably Confederate soldiers, and if not, people of standing in the community whose veracity is certified to by a judge or clerk of a court of record; and, along with that sworn affidavit that they saw the horse taken, they generally give an account saying substantially, "As we were passing by such a place, certain Federal troops did so and so," and very often you can check up the thing by the record, because we know certain troops actually were in a certain section of the country at a certain time; and when a man says, "General James H. Wilson, commanding in such a place and at such a time, met us coming home," we can put our finger on it and determine what particular officer was in command at that particular time, and we can take it for granted that that was right. Some of the proof is presumptive and some of it positive; but you have got to fall back on the affidavits of reliable witnesses, whose veracity is certified to by the clerk of the court or a judge. Seven hundred and forty-six claims have been actually paid.

Mr. BURKETT. You have no record, of course, of these horses taken—no record of the Federal Army?

Major BELLINGER. In some cases we have, but in not very many. They apparently took these horses and turned them over to the different quartermasters' corrals, and they were disposed of. In some cases there were records, but not very many. I do not suppose they had the clerical means or thought of keeping a record. They just captured them and turned them in to the quartermasters.

The CHAIRMAN. The quartermasters sold them and the Government got the money?

Major BELLINGER. Yes, sir.

The CHAIRMAN. Mr. Burkett asked a question why they should have been taken by the different armies—Federal officers and troops—and turned in in that way. How about that?

Major BELLINGER. You will have to get at those officers and have them answer it. Perhaps they had not heard of the terms of the surrender; and, seeing these people coming home—sometimes they went home in troops, just as they surrendered, or went to certain places to surrender—those Federal officers considered those animals were property that could be properly confiscated by the United States. Possibly they had not heard of the terms of the surrender.

The CHAIRMAN. All of this information that might have operated on their minds was unknown to them, perhaps?

Major BELLINGER. As a matter of fact they should not have taken them.

Mr. UNDERWOOD. Just at the close of the war, in the uncertain conditions, a great many were taken in coming across the States from where they surrendered with Lee, and went right through the lines of Wilson's troops coming from the other direction; and they knew nothing—Wilson's troops knew nothing—of such surrender.

Major BELLINGER. There are cases where men had gone toward home, and had the authority of the Federal officers to whom they had

surrendered in other places—they started home and met other troops; and notwithstanding the fact that they had surrendered, they had their property taken away. So the question arises, On what basis did those men act?

The CHAIRMAN. That is hard to determine now.

REGULAR SUPPLIES.

Major BELLINGER. I understood you to say, in questioning Colonel Pond about that deficiency in regular supplies, that you wanted to have data to explain it. If you desire, I think I can make a remark that will show you just where those variations come in. The principal variation in that case is not so much in the difference in heating and lighting barracks and quarters, because you can tell in estimating to-day for next year just how many barracks and quarters you have got. That is practically a fixed problem. But in making your estimate for supplies next year, in purchasing hay, grain, coal, wood, and all that, you have to make that on the prices which you are paying to-day. You see, now, when you pass a bill and make your contracts two or three months later, if the prices go up you are obliged to make your contracts on the increased price. I was quartermaster at West Point for a number of years, and for the last three or four years I had to put in deficiency bills for fuel and apparatus, because we were making our contracts after the estimates were fixed, and the prices went up.

MEDICAL DEPARTMENT.

STATEMENT OF BRIG. GEN. ROBERT M. O'REILLY, SURGEON-GENERAL, U. S. ARMY.

The CHAIRMAN. On page 36 of the bill, General, you will find your item, to supply a deficiency in the appropriation, "Medical and hospital department," etc., \$200,000, to be expended out of the unexpended balance of the appropriation for 1902. Please explain, General, the cause of the deficiency this year.

General O'REILLY. The principal cause, I may say, was my absolute inexperience when I came on here. In less than a month after I arrived here I was directed to make an estimate for the supply of the present fiscal year. The estimate was made out from the best information I could get for \$700,000, and then it went downstairs, and I was directed to cut it down; and I cut it down to \$450,000, which was less than any appropriation that has been made for a number of years, and I find I can not get along on it. The original estimate for \$700,000 was very much nearer what was required than the \$450,000. That is why it happened. It was an underestimate to begin with.

The CHAIRMAN. The Secretary of War directed you to cut the estimate from \$700,000 to \$450,000?

General O'REILLY. I was told that he directed it to be cut. He did not tell me in person.

The CHAIRMAN. How much was the expenditure for that item during the last fiscal year? Can you tell—for the fiscal year 1903?

General O'REILLY. The accounts are incomplete so far. All the accounts have not been settled, but \$692,599.98 so far has been expended.

The CHAIRMAN. And you have this year an appropriation of only \$450,000, and you want \$200,000 deficiency, so that the deficiency will pay up your bills and would make \$650,000 that you would have for this year.

General O'REILLY. Yes, sir.

DISTRICT OF COLUMBIA.

STATEMENT OF MR. A. B. DUVALL, CORPORATION COUNSEL, DISTRICT OF COLUMBIA.

REIMBURSEMENT OF SHORTAGES IN ACCOUNTS.

The CHAIRMAN. Will you please turn to page 26 of the bill before you, Mr. Duvall, at the bottom of the page, to the item "For amount required to reimburse the whole-cost deposit fund, District of Columbia, for the ascertained shortage therein, \$49,577.58; and to pay to the United States its proportion on account of the shortage in the appropriation for assessment and permit work, District of Columbia, \$11,503.74; in all, \$61,081.32, to be paid wholly from the revenues of the District of Columbia." As I understand it, this is the portion of the money embezzled by an employee of the District government.

Mr. UNDERWOOD. Before Mr. Duvall starts, let me understand that. Mr. Courts, is \$11,000 of this \$61,000 to come out of the District fund?

Mr. COURTS. It all comes out of the District revenues; but \$11,000 of it is to be reimbursed to the United States for funds belonging to the United States that were embezzled.

The CHAIRMAN. That is correct, is it, Mr. Duvall?

Mr. DUVALL. Yes, sir.

The CHAIRMAN. Now, if you will explain briefly what it is proposed to do in the future as to funds of this kind we shall be glad. As I understand it, instead of having the funds collected and placed on deposit in guaranty of payment for work done in the District of Columbia, in place of having it deposited in the hands of some particular person in the employ of the District of Columbia, you will have it placed in the Treasury of the United States?

Mr. DUVALL. The auditor can best answer your question as to the financial features.

Mr. J. R. GARRISON, auditor of the District of Columbia. Since this defalcation was discovered the money is deposited in the Treasury to the official credit of the disbursing officer.

The CHAIRMAN. So that he can check it out from time to time when the work is completed and pay for the work and return it to the party who deposited the money?

Mr. GARRISON. Yes. In the bill it is provided to put it regularly in the Treasury as a trust fund, to be drawn out by the Commissioners. As it now stands it would simply require a check by the disbursing officer, countersigned by the auditor, to draw it all out.

The CHAIRMAN. Now, the people who deposited this money for work done and had a balance due them after the work had been completed, have they been paid this balance?

Mr. GARRISON. Yes; from time to time, out of this general fund.

The CHAIRMAN. And this is to reimburse the general fund?

Mr. GARRISON. Yes. If the general fund was wound up there would be this deficiency.

The CHAIRMAN. Was Watson under bond?

Mr. GARRISON. No, sir.

Mr. DUVAL. Yes and no, Mr. Chairman. You were asking what is the present scheme proposed by the District officials to prevent such a catastrophe in the future.

The CHAIRMAN. Yes. Give us the legal status of the matter now.

Mr. DUVAL. Yes. These funds passed into the hands of the auditor of the District of Columbia. They were deposited by the auditor to his credit, as auditor, in several banks of the city. Watson was a clerk in his office and had charge of these accounts, and he so manipulated them and so intercepted checks which he ought to have deposited that he reduced this fund to the extent that is indicated in this estimate of appropriation.

The details of the *modus operandi* were something like this: For a long period of time the deposits were made to the credit of the auditor, and he would draw his official check, payable to himself as auditor, and transfer to the account that was to be used. Instead of depositing to the credit of the auditor, Mr. Watson drew the money and pocketed it. Mr. Watson was under no bond. Mr. Petty, the auditor, was under \$20,000 bond. When the defalcation was discovered, suit was brought against Watson at once. We brought a suit for ten thousand and odd dollars on one of these branches of default, and attachment proceedings were taken. We did not get very much. Mr. Watson, I think, had lost his money on the stock exchange. But we did get an automobile and a barber shop, and some other valuable things of that kind. We obtained a judgment on that suit for \$10,000, and garnished the banks where he had some balances. I think we have collected some \$300 or \$500; at least, in excess of \$300.

We had some information that he had property, or a deposit, in New York and at Atlantic City. We never could get any clew to that. I went down to Atlantic City and found out he had not anything there. His wife was down there with the family at the time, but we could not attach her. We attached, however, the automobile, which had figured very extensively in the newspaper accounts of this defalcation. It was a valuable machine. That was sold, and I think it brought in the neighborhood of \$1,000. That is claimed by Mrs. Watson, and we have a suit pending with her as to the ownership of that. It was said that Watson had some property in Virginia, down by Quantico—a hunting place. I went down to Manassas, to the court-house there, and had that attached; but it was a little farm that he had paid some \$800 for, and there was a deferred-purchase trust on it for some \$600. That has been sold, but did not yield anything. It merely paid the expenses. So far as Mr. Watson is concerned, that is the general statement of the effort made to get anything out of him.

Then the bond was put in suit—the auditor's bond for \$20,000—and that suit is now pending. In that suit I think the whole amount of this defalcation was stated according to its items. However, the penalty of the bond is only \$20,000. The auditor and his sureties have demurred to that declaration, and the case is standing on that demurrer now, the claim being that there was no law or rule or regulation under

which the auditor was chargeable with the custody of or otherwise accountable for the money named in the declaration.

The CHAIRMAN. Would any legislation here at this time in any way affect the pending litigation?

Mr. DUVAL. It might, in my judgment. It might have some effect so far as the sureties on that bond are concerned. As I understand this, however, the proposed appropriation is intended to adjust the accounts between the auditor and the United States Treasury Department. The District of Columbia would still be minus all this money. You require the District to make good to the United States the money that was held by the auditor belonging to the United States. I think, if I were representing the sureties on that bond, I would undertake to make some use of that provision.

Mr. UNDERWOOD. This clause is merely a matter of bookkeeping, to straighten the accounts?

Mr. DUVAL. That is the purpose of it.

Mr. UNDERWOOD. And there is no serious hurt that can be done to the District if we wait until next year, or until this suit is decided?

Mr. DUVAL. I understand, so far as the District is concerned, that it is quite essential to get this account where the money can be paid. A large part of this represents money that was put up by you and by me for work to be done, and we are entitled to have it back again, and the District has not any money to respond to our demand. Watson got away with the money. The purpose of this, as I understand it, is to put in the hands of the District, taking it from the revenues of the District, the money to respond to your demand or mine.

Mr. BURKETT. If this appropriation was made, do you say it would be used adversely to the District's interest in this suit?

Mr. DUVAL. I think the sureties might make some use of it.

Mr. BURKETT. Then it should not be passed.

Mr. DUVAL. I would not pass it without a proviso. I understood that was the question I was to be asked here, and I have this to suggest to protect that:

Provided, however, That this appropriation shall be effective for no other purpose than to adjust the accounts before named in the hands of the auditor of the District of Columbia and the Treasury Department of the United States.

With that proviso, I do not see how any claim could be made by the sureties on that bond that they were released in any way. In point of fact, the District of Columbia is minus after you make that appropriation, is it not? It has not been made whole in this matter. You have required it to take some of the United States money and pay over to A, B, and C the moneys that were allowed to be diverted under the permit system. At the same time I do not see why the bond suit should be imperiled by that. I think that that proviso would protect us. This default occurred when—what was the date?

Mr. ALONZO TWEEDALE, deputy auditor. June 9, 1903.

Mr. DUVAL. Yes; June 9, 1903. I do not have much knowledge of the details of it, but, as I understand it, claims have been made, and will continue to be made, for the repayment of this money that was in the hands of the District auditor.

Mr. UNDERWOOD. There is no question as to the liability of the District of Columbia to the people who put up this money?

Mr. DUVAL. No, sir.

STATEMENT OF MR. J. R. GARRISON, AUDITOR OF THE DISTRICT OF COLUMBIA.

CORONER'S OFFICE.

The CHAIRMAN. Mr. Auditor, I wish you would turn to page 14 of the bill, to the item, "Coroner's office: To pay the deputy coroner for services during the absence of the coroner for the fiscal years as follows: 1903, \$80; 1904, \$180."

Mr. GARRISON. As I understand, he gets no pay except when on duty, and the code provides that he shall then receive \$5 a day.

The CHAIRMAN. And this is an exact calculation of the days he has served during these fiscal years?

Mr. GARRISON. Yes, sir. I have prepared here a typewritten statement on each of these items, which explains them.

CONTINGENT EXPENSES, CORONER'S OFFICE.

The CHAIRMAN. The next is for "Contingent expenses: For livery of horse or horse hire for the coroner's office, jurors' fees, witness fees, removal of deceased persons, making autopsies, ice, disinfectants, and other necessary supplies for the morgue, and the necessary expenses of holding inquests, including stenographic services in taking testimony, and photographing unidentified bodies, for the fiscal years as follows." You want for the fiscal year 1904, \$1,000. Please explain that item.

Mr. GARRISON. If you will permit me, I will read from the written explanation.

The appropriation provided for the coroner's office for the current fiscal year is \$1,500. Of this amount more than \$800 was expended for the payment of jurors and witnesses. The total appropriation of \$1,500 was entirely exhausted in the first seven months of the fiscal year, and the deficiency estimate of \$1,000 is asked for to meet the expenses of the coroner's office from February 1, 1904, to June 30, 1904, and is based upon the average rate of expenditures for the seven months ended January 31, 1904. The coroner believes his estimate of \$1,000 to be a very conservative one, and that an appropriation of that amount is absolutely necessary for the proper conduct of his office and the morgue for the period above mentioned.

The CHAIRMAN. The fees of witnesses and coroner's fees, and so forth, are regulated by law?

Mr. GARRISON. Yes, sir.

The CHAIRMAN. Have you paid out any sum other than that required to be paid by law?

Mr. GARRISON. No.

Mr. BURKETT. Tell us why it is that this has suddenly jumped up so.

Mr. GARRISON. These expenditures have come in, I suppose—

Mr. BURKETT. Have jury fees doubled up?

Mr. TWEEDALE. They were never provided for. The code provides \$3 a day for jury fees. We had jury fees, but no witness fees. Jury fees were \$1.

The CHAIRMAN. What does your code provide now for witness fees?

Mr. TWEEDALE. \$1.25.

The CHAIRMAN. \$1.25, and that code raised the jury fees from \$1 to \$3?

Mr. TWEEDALE. Yes, sir.

The CHAIRMAN. That explains the increase, does it? What do they use for stenographic services, if anything?

Mr. GARRISON. I do not know of any in the coroner's office.

Mr. TWEEDALE. The notes are usually taken by hand, and it usually costs about \$5 for each inquest.

The CHAIRMAN. For the fiscal year 1903, \$138.38. That was the deficiency for the fiscal year 1903.

Mr. GARRISON. The vouchers are on file in the auditor's office covering that amount.

Mr. BURKETT. Why was not that attended to last year?

The CHAIRMAN. Mr. Burkett asks why the deficiency for 1903 was not reported prior to this time.

Mr. GARRISON. The vouchers have come in subsequently. They have not been allowed, of course, or paid by the District government, but they are pending in the auditor's office. They are here, if the committee desires to look at them.

JUDICIAL EXPENSES.

The CHAIRMAN. No. "For additional amount required to meet the objects set forth in the appropriation for judicial expenses for the fiscal year 1903, \$86.03." They are items that have come in since?

Mr. GARRISON. Yes. This amount is required for the payment of the actual amount of vouchers for the printing of briefs, etc., which are held in the District auditor's office awaiting an appropriation for settlement.

RENT.

The CHAIRMAN. The next is an item for rent.

Mr. GARRISON. Yes; to pay National Capital Investment Company \$8,000. The item of \$1,000 for the fiscal years 1897 to 1904, inclusive, represents the difference between the sum of \$10,000, which the National Capital Investment Company asked as rental for the District building and which the Commissioners agreed to recommend to Congress, and the sum of \$9,000, which Congress has annually appropriated for that purpose.

ROCK CREEK PARK.

The CHAIRMAN. I think we are familiar with that. On page 17, near the bottom, is an item headed, "Rock Creek Park: For amount due Glenn Brown for designs for concrete bridges in Rock Creek Park, \$55.96." Who employed Glenn Brown and what did he do?

Mr. GARRISON. He was employed by the board of control. He is an architect, and this is a balance due on his bill for designs furnished to the board of control.

The CHAIRMAN. What was his total bill for the designs?

Mr. TWEEDALE. One hundred dollars.

The CHAIRMAN. Why was it not paid?

Mr. GARRISON. There was not money sufficient. It was paid to the extent of the appropriation.

Mr. UNDERWOOD. That is 1902. Has not any effort been made to collect it since?

Mr. TWEEDALE. These vouchers—the remaining vouchers presented here—were held in the office on account of the Watson defalcation. They were misplaced, according to the letter I have in my hand.

The CHAIRMAN. Will you read the letter?

Mr. TWEEDALE. Yes; here it is.

SEPTEMBER 17, 1903.

Mr. GLENN BROWN, *National Union Building.*

DEAR SIR: Referring to your request for settlement of your account against the District of Columbia for designing bridges in Rock Creek Park, I am directed to reply that the accounts for \$27.41 and \$28.55 can not be paid, for the reason that the balance of the funds from which they would have been payable have been charged off and the appropriations are exhausted. The Commissioners have referred the matter to the Auditor for inclusion of the amounts in the next general deficiency estimates.

Very respectfully,

W. F. RODRICK, *Secretary.*

On September 8, 1903, Mr. Garrison addressed this letter to Hon. Henry L. West, Commissioner, District of Columbia:

SIR: The vouchers referred to in the accompanying communication of Mr. Brown are chargeable to various appropriations for the care and improvement of Rock Creek Park, District of Columbia, the disbursement of these appropriations having been made by Mr. J. T. Petty during his term of office as disbursing agent of Rock Creek Park, District of Columbia.

The detail work connected with the auditing of these accounts was intrusted to Mr. Watson, and because of the investigation of the accounts in his charge, both by this office and the experts designated by the Treasury Department, which has been in progress for the past three months, these vouchers, together with a number of others, were necessarily delayed in settlement.

Mr. UNDERWOOD. That does not account for why they were not here last year.

PUBLIC SCHOOLS, REPAIRS TO HEATING APPARATUS.

The CHAIRMAN. The next item is, "For public schools: For additional amount required for repairing and renewing heating and ventilating apparatus, \$2,000."

Mr. GARRISON. Because of the unusual severity of the past winter, it has been necessary to keep the furnaces and boilers in the various school buildings up to their full heating capacity, causing the burning out of many of their repair parts, such as grate bars, side linings, etc. In addition to this, extreme cold weather has also caused the bursting of many steam and water pipes. The appropriation of \$2,500, provided for repairs to heating and ventilating apparatus for the fiscal year 1904, has been entirely exhausted, and in addition thereto there has been allotted, and is now being expended (as required) from the appropriation for the emergency fund, the sum of \$1,000 for immediate urgent repairs. The superintendent of repairs believes the estimate of \$2,000 a very conservative one for the repairs which it is now necessary to make.

The CHAIRMAN. Are there any further questions, gentlemen, upon that item?

IMPROVEMENTS TO SCHOOL BUILDINGS AND GROUNDS.

If not, we will go to the next: "For repairs and improvements to school buildings and grounds, \$2,500." You have never had a deficiency in that item before.

Mr. GARRISON. Equally important is the necessity for an additional appropriation of \$2,500 for repairs to school buildings and grounds, because, as the superintendent of repairs states, the balance remaining to the credit of the appropriation of \$55,000, provided for this purpose for the current fiscal year, will not be sufficient to do the work made necessary by the severity of the past winter. He also states that the appropriation of \$2,500 requested is a very low estimate when the amount of repairs that must be made is considered. His letter is here.

Mr. BURKETT. He could make it out next year, could he not?

Mr. GARRISON. We understand these repairs are urgently needed, and it would be to the interest of the public service to have them done as speedily as possible.

FUEL.

The CHAIRMAN. The next item is for fuel, \$10,000.

Mr. GARRISON. The secretary of the board of education states that this estimated deficiency in the appropriation for fuel was determined by the quantity of coal consumed up to this time and the probable quantity required for the balance of the school term. The appropriations for fuel for the fiscal year 1903 amounted to \$90,000, all of which was expended with the exception of about \$3,000. The appropriations so far provided for fuel for the current fiscal year amount to \$65,000, which is less by \$25,000 than those for 1903. The estimate of \$10,000, herewith submitted, is believed to be absolutely necessary for the proper heating of the school buildings for the remaining period of the school term in which fires will be needed, as obligations have now been incurred beyond the \$65,000 appropriated.

JANITOR TAKOMA PARK SCHOOL.

The CHAIRMAN. For additional compensation for the janitor of the Takoma Park school from February 1, 1904, to June 30, 1904, \$124.40. Why?

Mr. GARRISON. The appropriation provided for the pay of the janitor of this school building for the current fiscal year is \$240, being the amount allowed for the care of a four-room building. Since February 1, 1904, the janitor of the Takoma school has been required to care for an eight-room building (the building having been enlarged), and the amount of \$124.40, requested in this bill, is to pay him from February 1, 1904, to June 30, 1904, a salary equivalent to that received by janitors of eight-room school buildings.

Mr. UNDERWOOD. Did he receive new employment when the building was increased in size?

Mr. TWEEDALE. He has been employed continually, and has been doing all the work of the eight rooms in the building.

Mr. UNDERWOOD. I understand that; but was he employed over again at a new salary, or continued under the old employment?

Mr. TWEEDALE. He was continued, I think, under the old employment.

The CHAIRMAN. Do you know whether or not there was an understanding that his salary would be increased?

Mr. TWEEDALE. The secretary writes a letter here which I will read:

BOARD OF EDUCATION OF THE DISTRICT OF COLUMBIA.

Washington, D. C., March 2, 1904.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

GENTLEMEN: Congress having failed to provide in the urgency deficiency bill for the increase in salary due the janitor of the Takoma school the board of education

recommends that the matter be again brought to the attention of the Committee on Appropriations to be provided for in the general deficiency bill. The present appropriation of \$240 is for the care of a 4-room building. In the same bill provision was made for the erection of four additional rooms, making it an 8-room building and putting it in the \$540 class. The difference of the two salaries from February 1, when the completed building was occupied, to June 30, is \$124.40, which will be due the janitor for the increased service rendered, and it is earnestly hoped by the board that this amount will be appropriated as requested.

Very truly, yours,

W. F. RODRICK, *Secretary.*

Mr. TWEEDALE (resuming). I imagine from that that the board of education arranged for it.

Mr. UNDERWOOD. Does Congress fix the amount, or does the board of education?

Mr. TWEEDALE. Congress fixes the amount.

Mr. BURKETT. There is no question as to the time when he went into the eight-room school?

Mr. TWEEDALE. No, sir.

TRANSFER TO CONTINGENT EXPENSES OF SCHOOLS.

The CHAIRMAN. The next item says: "The Commissioners of the District of Columbia are hereby authorized to transfer \$520 from the appropriation for purchase and repair of tools, machinery, material, and apparatus to be used in connection with instruction in manual training and for incidental expenses connected therewith, fiscal year 1904, and \$230 from the appropriation for kindergarten instruction, fiscal year 1904, to the appropriation for contingent expenses, fiscal year 1904." Why do that?

Mr. GARRISON. The appropriation for contingent expenses of the public schools includes the purchase of furniture. It has heretofore been the custom to pay for furniture needed for the manual training and kindergarten schools from the appropriations for manual training and kindergarten instruction. The Comptroller of the Treasury having held in a number of decisions that where an appropriation specifically provided for a particular object such appropriation was exclusive and general appropriations could not be resorted to, this ruling was applied to the purchase of furniture for the manual training and kindergarten schools, requiring payment to be made therefor from the appropriation for contingent expenses. The authority for the transfer of \$520 from the appropriation for manual training and \$230 from kindergarten instruction to contingent expenses is for the purpose of reimbursing the latter appropriation for the cost of furniture paid therefrom for the use of the former schools.

PIANOS FOR KINDERGARTEN SCHOOLS.

The CHAIRMAN. Go to the next item: "That the appropriation of \$35,000 for kindergarten instruction provided in the act making appropriations for the expenses of the District of Columbia for the fiscal year ending June 30, 1904, is hereby made available for the payment of pianos and other supplies heretofore purchased, and which may hereafter be purchased during said fiscal year, for use in the kindergarten schools." Why is not that available now?

Mr. GARRISON. Congress has for the past few years provided an

appropriation for the purchase of pianos for school buildings. It has heretofore been the custom to pay for pianos for the use of kindergarten schools from the appropriation for kindergarten instruction, but under the ruling of the Comptroller of the Treasury, that where an appropriation specifically provides for a particular object such appropriation is exclusive and general appropriations can not be resorted to, it became necessary in order to supply pianos to kindergarten schools, and to pay for those already purchased for the use of such schools, to have the appropriation for kindergarten instruction made available for that purpose.

EQUIPMENT OF NEW SCHOOL BUILDINGS.

The CHAIRMAN. If there are no questions, we will go to the next item: "That the appropriation of \$12,250 for furniture for new school buildings and additions to buildings provided in the act making appropriations for the expenses of the District of Columbia for the fiscal year ending June 30, 1904, is hereby made available for the equipment of such buildings."

Mr. GARRISON. In the District appropriation act for the fiscal year 1904 is provided an appropriation of \$12,250 for furniture for school buildings and additions to buildings. One of the schools included by this appropriation is a four-room manual-training school being erected at the corner of Seventh and G streets SE. It has been held that the word "furniture" does not include carpenters' benches, sewing tables, lapboards, etc., required in the equipment of a manual-training school. To authorize their purchase when necessary the above appropriation is asked to be made available for the equipment of such buildings.

IRON AND STONE STAIRWAYS, SCHOOL BUILDINGS.

The CHAIRMAN. We will now go to the next item: "For replacing wooden stairways in existing school buildings with iron or stone stairways, \$80,000." That belongs to the District bill.

Mr. GARRISON. This is a new appropriation, requested for replacing the wooden stairways in the various public school buildings of the District with stairways of iron and stone. The amount required for this work is based upon the estimate furnished by the District superintendent of repairs. The object in asking for this appropriation is to more thoroughly safeguard the lives of the teachers and children attending schools constructed with wooden stairways. Full details connected with this matter are on file in the auditor's office, with the communication from the board of education with respect thereto, and also a letter from the board of trade tendering the services of that body in helping to secure an appropriation for this purpose.

The CHAIRMAN. That is not a deficiency in any sense of the word. It belongs to the District bill.

FIRE DEPARTMENT.

The next item is "Fire department: For contingent expenses, horse-shoeing, furniture, fixtures, washing, oil," etc., for 1904, \$5,000. Now, why is there a deficiency of \$5,000 in that department?

Mr. GARRISON. The item of \$5,000 for the fiscal year 1904 is requested

by the chief engineer of the fire department, who states that an appropriation of this amount is made necessary for the reason that on account of the large amount of sleety weather during the past winter it was necessary for the horses to be shod oftener than was anticipated, and often after working hours at double the regular rates, and because of the supplies needed for a truck house now nearly completed. The small balance which now remains to the credit of the appropriation for contingent expenses, 1904, is practically already obligated, and the chief engineer states that an appropriation of the amount asked by him is vitally necessary for the proper conduct of his department for the remainder of the current fiscal year. This letter is here if you desire to see it.

The CHAIRMAN. No; the next is for forage \$5,000.

Mr. GARRISON. The sum of \$5,000 for forage is rendered necessary by the fact that prices have so advanced as to make it impossible to provide for the subsistence of the horses of the department with the amount now appropriated. The appropriation of \$13,000 for this purpose for the fiscal year 1904 has been entirely obligated.

The CHAIRMAN. Any questions? If not, we will go to the next item, "For additional amount required for house and furniture for truck company located in square 925, \$500."

Mr. GARRISON. The appropriation for house and furniture for a truck company located in square 925 was \$22,000, the site being owned by the District of Columbia. Subsequent to the date of this appropriation it was found necessary to procure an additional strip of ground in the rear of the property owned by the District, and Congress authorized its purchase from the appropriation provided for the house and furniture, at a cost not exceeding \$2,000 (\$1,900 actually paid). This expenditure was not contemplated at the time the appropriation for the truck company was made and consequently it is found necessary to ask for an additional sum of \$500 to properly complete and equip this house.

The CHAIRMAN. The next is "For amount required for the construction of an open underground drain for the Congress Heights engine house, \$500."

PREVENTION OF SCARLET FEVER AND DIPHTHERIA.

The next is "Health department: For additional amount required for the enforcement of the act to prevent the spread of scarlet fever and diphtheria in the District of Columbia, approved December 20, 1890," etc., \$2.

Mr. GARRISON. For 1902, \$2; and for 1903, \$1.20.

ISOLATING WARDS, GARFIELD HOSPITAL.

The CHAIRMAN. On bottom of page 22 is the item "For additional amount required for maintenance of the isolating wards at Garfield Hospital, \$1,500, or so much thereof as may be necessary."

Mr. GARRISON. An appropriation of this amount is requested by the authorities of Garfield Hospital for the reason that the appropriation of \$4,000 provided for the maintenance of the isolating wards at this institution for the fiscal year 1904 has been practically entirely obligated, and that the additional sum of \$1,500 is needed for the support of these wards for the months of April, May, and June, 1904.

The CHAIRMAN. Under what regulations is this money expended? How are we to determine how much we pay Garfield Hospital?

Mr. TWEEDALE. It is expended on the requisition of the Commissioners. They authorize the money to be placed to the credit of Garfield Hospital, and the vouchers are audited by the auditor's office of the District and the Auditor's office of the State and other Departments.

Mr. BURKETT. Who defines the amount they shall have? What is the law for these isolating wards over there?

Mr. TWEEDALE. It is an appropriation act; so much as shall be necessary.

The CHAIRMAN. I understand that; but we put people into those wards, do we?

Mr. TWEEDALE. Yes, sir.

The CHAIRMAN. How much per ward do we pay, or how much per person?

Mr. TWEEDALE. My recollection is there is no contract made with Garfield Hospital.

The CHAIRMAN. Can you ascertain what this charge is for and give us the details and have a letter sent down here by to-morrow?

Mr. TWEEDALE. Yes, sir; I think that I can.

The CHAIRMAN. What contract we have, if any, and how we pay this money.

Mr. GARRISON. There is a contract to care for the regular patients, but not for these isolating wards.

The CHAIRMAN. I want to know under what regulations and how we pay, whether so much per ward, etc. In other words, what we expend this money for?

Mr. GARRISON. I know they receive money for pay patients in these isolating wards.

The CHAIRMAN. Yes; we want to know what we pay our money for.

Mr. UNDERWOOD. I understand we pay the same amount to Providence Hospital, and they run without a deficiency. I wish you would make a memorandum of that and tell us why.

Mr. TWEEDALE. We pay them one-twelfth each month.

The CHAIRMAN. I want the same arrangement made with Garfield Hospital and see if we can not avoid a deficiency.

Mr. UNDERWOOD. I would also like to know, Mr. Chairman, what would happen if we did not pay this deficiency?

The CHAIRMAN. We can tell that, I suppose, after we get this information.

Mr. UNDERWOOD. In other words, if we do not pay the deficiency, whether it will close up the hospital?

OFFICE OF AUDITOR DISTRICT OF COLUMBIA,

Washington, April 9, 1904.

HON. JAMES A. HEMENWAY,

Chairman Committee on Appropriations,

House of Representatives.

SIR: In answer to your verbal inquiry in relation to the item of \$1,500 in the deficiency bill for the isolating ward of Garfield Hospital, I have the honor to state that the appropriations of \$4,000 each for the maintenance of the isolating wards of the Providence Hospital and Garfield Memorial Hospital are expended as follows: In the case of the Providence Hospital, by payments made by the disbursing offi-

cer of the District of Columbia to the president of the hospital on vouchers and receipts of the president of the hospital, certified and approved by the health officer and duly audited by the auditor of the District of Columbia; in the case of the Garfield Hospital the money is advanced on the requisition of the Commissioners upon request of the hospital authorities to the treasurer of said hospital, who disburses the same for supplies and services and transmits the vouchers and accounts to the Auditor for the State and other Departments through the auditor for the District of Columbia.

Payments are not made to either of these institutions under a contract based on the number of patients treated, for the reason that it is necessary to maintain these wards continuously without regard to the number of patients treated therein, and consequently the expense of operation is continuous.

Payments for the support and medical treatment of destitute patients at the Providence Hospital, under the appropriation for "Support and medical treatment of destitute patients," are made by the disbursing officer of the District of Columbia to the president of the hospital, upon vouchers duly audited by the auditor of the District of Columbia, under a contract with the Surgeon-General of the Army.

Payments for medical and surgical treatment of destitute patients at the Garfield Hospital, under the appropriation for "Maintenance of Garfield Hospital," are also made by the disbursing officer of the District of Columbia to the treasurer of the hospital, upon vouchers duly audited by the auditor of the District of Columbia, under a contract made with the Board of Charities of the District of Columbia.

The superintendent of the Garfield Hospital informs me that the reason the expenses of maintaining the isolating ward at Garfield Hospital is greater than that of Providence Hospital is because the Garfield Hospital ward is located in a separate building not connected with the hospital in any way, and therefore it is necessary to run a separate plant for heating, lighting, and maintenance of the ward. The Providence Hospital isolating ward is connected with the general plant of that institution. The superintendent further states that the number of free patients treated in the isolating ward at Garfield Hospital for the particular class of diseases for which this ward was established, namely, diphtheria, measles, whooping cough, chicken pox, erysipelas, mumps, etc., is greatly in excess of the number treated in the isolating ward at Providence Hospital, which receives in said ward only such free patients as are suffering from scarlet fever. In case this deficiency appropriation should not be granted, the superintendent seemed to think that it might be necessary to close this ward for the balance of the fiscal year.

Very respectfully,

J. R. GARRISON,
Auditor District of Columbia.

WRITS OF LUNACY.

The CHAIRMAN. "Writs of lunacy: For amount due Dr. D. Percy Hickling for services as witness in alleged lunacy cases, three certificates, at \$10 each, for the fiscal years that follow: * * * 1899, \$20; 1901, \$10." What happened to him?

Mr. GARRISON. These amounts are requested to pay Dr. D. Percy Hickling for services as an expert witness in three lunacy cases of \$10 each. These cases were tried, as required by law, before the

supreme court of the District of Columbia, Doctor Hickling having been previously designated by said court to make an examination of the persons alleged to be insane for the purpose of testifying regarding their sanity, and in compensation for such services the law authorized the payment of a fee of \$10 in each case. These vouchers have recently come in. They were very late, and we made an exhaustive examination to see if they had been paid, and they have not been paid.

The CHAIRMAN. And they are due this gentleman, are they?

Mr. GARRISON. They are due.

WASHINGTON ASYLUM.

The CHAIRMAN. The next is, "Washington Asylum: For additional amount required to meet the objects set forth in the appropriation for contingent expenses for the fiscal years which follow: * * * 1904, \$6,000; 1903, \$2,577.46." What happened there?

Mr. GARRISON. The item for 1903 is covered by vouchers which we have here. For 1904 the estimated deficiency of \$6,000 in the appropriation for contingent expenses for the current fiscal year is due to the fact of the increase in the number of inmates maintained at this institution during the past winter, particularly in the hospital. The total estimated obligations to March 31, 1904, payable from the appropriation of \$60,000 for the fiscal year 1904, amount to about \$50,000, leaving only \$10,000 available to meet the expenses of maintaining the asylum and hospital for the months of April, May, and June. In view of the fact that at the very least \$5,000 is required for each of the above months, the intendant of the asylum urges the additional appropriation of \$6,000, believing it to be absolutely necessary for the support of the institution for the period above mentioned.

BOARD OF CHILDREN'S GUARDIANS.

The CHAIRMAN. Now, the next is for "Board of Children's Guardians: For additional amount required for the maintenance of feeble-minded children, \$1,000."

Mr. GARRISON. The president of the Board of Children's Guardians states that on the 1st day of December, 1903, there were 52 feeble-minded children placed in different institutions at an annual charge of \$225 per child. This number alone will cause an approximated deficiency of more than \$500 in the appropriation of \$11,000 provided for the maintenance of such children for the current fiscal year. The board urges upon the appropriation committees, through the Commissioners, the importance of caring for this helpless class of dependents, and asks that the additional appropriation of \$1,000 be made for the purpose of meeting the approximated deficiency in the present appropriation and for the purpose of being able to provide for three more dependent children the balance of the year.

INDUSTRIAL HOME SCHOOL.

The CHAIRMAN. "Industrial Home School: For maintenance, \$4,000."

Mr. GARRISON. The appropriation provided for the maintenance of this institution for the fiscal year 1904 was \$13,000. This amount has been entirely expended, and in addition thereto practically all moneys

remaining to the credit of the Industrial Home School fund, which are derived from the sale of products, etc. As it is now, obligations are being incurred for the support of this institution, and when the vouchers are presented for payment there will be no appropriation available to meet their payment. In view of these facts the absolute necessity for securing the additional appropriation of \$4,000 for the maintenance of this institution for the balance of the present fiscal year is apparent.

RELIEF OF THE POOR.

The CHAIRMAN. "Relief of the poor: For additional amount required for the municipal lodging house and wood and stone yard maintenance, including rent, for the fiscal year 1904, \$400."

Mr. GARRISON. A comparative statement prepared by the superintendent of the municipal lodging house shows that during the months of October, November, and December, 1902, and January and February, 1903, fiscal year 1903, the total number of persons to whom lodging and meals were furnished was 4,196, and that during the corresponding period in the current fiscal year the persons so accommodated numbered 10,065, an increase of 5,869. The large increase in the number of persons cared for during the fiscal year 1904 over that of 1903, with the same amount of appropriation provided for both years, is the cause of the estimated deficiency of \$400, for which an appropriation is necessary for the maintenance of this establishment for the remainder of the year.

RELIEF OF ALICE L. RIGGS.

The CHAIRMAN. On page 27 is an item for relief of Alice L. Riggs, for reimbursement for moneys expended and obligations incurred by her in the partial construction of an automobile salesroom and storage barn on lot 107, in square 210, under a permit issued by the Commissioners of the District, etc., \$1,004.96. How about that?

Mr. GARRISON. This claim arises from the fact that on March 24, 1903, a permit was issued for an automobile house to be erected at Fifteenth street and Rhode Island avenue, which was subsequently, on March 30, 1903, revoked. In the interim moneys were expended and obligations incurred to the amount of \$1,004.96. This amount is supported by itemized bills filed in the office of the District auditor.

The CHAIRMAN. He says this ought to be paid?

Mr. GARRISON. The Commissioners think the amount is equitable and properly due.

Mr. UNDERWOOD. Has the law officer advised that the District is liable for the amount?

Mr. DUVALL. Suit was brought on this claim, and an action for damages is pending now; and I think it is very doubtful, as a matter of law, whether the District is liable for it. The facts in the case, in my judgment, are entitled, however, to favorable consideration here. I do not know that you are familiar with the locality, Fifteenth and Rhode Island avenue, the northeast corner of the intersecting street. If you are familiar with it at all, you will know that that is a very desirable residential locality. Miss Riggs owned a corner lot that had been vacant there for years. This automobile company desired to locate there with an automobile stable. They obtained a permit from

the Commissioners, but as soon as the people in the neighborhood ascertained what was going on, they raised quite a row about it, and they had the whole town down on it, alleging that it would destroy the neighborhood for residential purposes; and there were people there who had expended large sums of money upon elegant residences, and to have the automobiles running in and out at all hours of the night, and over the pavement, to get to the building, was a thing that ought not to be allowed.

The Commissioners referred the matter to me and I discovered a little flaw in the application for the permit, and they revoked the permit. In the meantime Miss Riggs had made these expenditures. The excavations for the walls had been made and some of the construction work had been commenced. There was effort made to obtain the permit back again and cancel it, and that was unsuccessful, and suit was brought claiming damages.

Mr. UNDERWOOD. Is that suit pending now?

Mr. DUVALL. Yes; it is pending now.

The CHAIRMAN. As the law officer of the District, you think this would be a good subject?

Mr. DUVALL. I think it would be very desirable to have an adjudication. If anybody is liable, I think it is the Commissioners; but they were acting in perfect good faith about the thing and were trying to serve the public interests. These items of expense—I have not examined all of them, but I know they have been cut down to the lowest figure. Miss Riggs is of the old Riggs family here. She is a lady of considerable property and is not seeking to make any money out of this, but this is an effort to make herself whole in reference to it, and this represents actual outlay on this account.

The CHAIRMAN. Have you any recommendation to make as to whether or not this item ought to go into the bill?

Mr. BURKETT. You do not think she can get a judgment against the District, do you?

Mr. DUVALL. I would contest it. The court has not entirely agreed with me. The court does not always understand things as I do.

DEPARTMENT OF THE INTERIOR.

STATEMENT OF MR. AMOS HADLEY, CHIEF OF STATIONERY AND PRINTING DIVISION.

STATIONERY.

The CHAIRMAN. Please turn to page 48 of the bill before you, Mr. Hadley. You will notice there an item for stationery for the Department of the Interior and its several branches and offices, including the Civil Service Commission, \$8,000. Please explain to us the necessity for the deficiency.

Mr. HADLEY. Well, all I can say to the committee is that the demands of the Department are constantly increasing for supplies of stationery, and I think it is generally understood that the work of the Patent Office is very largely increased, and the issues of patents have increased very rapidly. Then one other office I would mention specifically, and that is the Civil Service Commission. It is an office which, of course, is

not under the Interior Department, but under the law we supply them with stationery. Their demands are increasing every year quite largely. The Land Office also has additional requirements for stationery yearly.

The CHAIRMAN. What inquiry is made into the demands of these different bureaus for stationery? Do you simply honor their requisitions all the time, or is inquiry made as to the necessity?

Mr. HADLEY. We judge from their requisitions as to whether they require what they ask for. In a good many cases we cut off from the requisitions things that are called for which it is believed they can get on without, and in a great many cases there is a reduction made in the quantities which they ask for.

The CHAIRMAN. What amount of this fund have you on hand now?

Mr. HADLEY. A balance of between \$3,000 and \$4,000.

PRINTING AND BINDING.

The CHAIRMAN. There is an item on page 89 of the bill for printing and binding for the Interior Department, including the Civil Service Commission, \$20,000. You had \$630,000, and you also had a deficiency of \$42,000 on the urgent deficiency bill this year. Now you ask for another deficiency of \$20,000. Please explain the reason for it.

Mr. HADLEY. The explanation I would give in relation to that would be very similar to what I have given in relation to the stationery. The Patent Office, particularly, consumes a large proportion of that appropriation—I think about more than one-half of it; and as I said in relation to stationery, the issues of patents are increasing every month—I think every month, or at least every year, and the printing for the Patent Office, the printing of specifications, etc., is very expensive.

The CHAIRMAN. Why did you not get this into the estimate when your estimate was made for the urgent deficiency bill?

Mr. HADLEY. I think it was all in there. I think we had an estimate for \$59,000 at least.

The CHAIRMAN. How much of this fund have you on hand now?

Mr. HADLEY. I am sorry I can not tell just the balance. I think on the 1st of March we had a balance of about \$80,000.

The CHAIRMAN. This deficiency of \$20,000, you think, is absolutely necessary to do the work this year?

Mr. HADLEY. I do; yes, sir. We make our estimates very carefully.

PATENT OFFICE.

STATEMENT OF MR. FREDERICK I. ALLEN, COMMISSIONER.

The CHAIRMAN. The first item is: "For producing the Official Gazette, including weekly, monthly, bimonthly, and annual indexes therefor, exclusive of expired patents, \$80,000." You had \$100,000 for the fiscal year 1904. Explain the necessity for the deficiency of \$80,000.

Mr. ALLEN. The deficiency is simply the balance of the amount necessary to carry this work through the balance of the year. It has always been the custom to appropriate a good deal less than the actual amount at first and then to supplement by a rather large item in the deficiency bill. The extent of the Gazette is controlled simply by the

size of the issues of the Office and the matter which is determined by inventors, who come in under their statutory right through the office that does the work. The work grows. It is only the natural increase of business which is growing at all points.

The CHAIRMAN. There is an increase of \$21,000 over the expenses of the fiscal year 1903. That represents, you say, the increase of work done in the Patent Office?

Mr. ALLEN. Merely the excessive growth.

The CHAIRMAN. We sell this publication, do we not, to parties?

Mr. ALLEN. Yes, sir.

The CHAIRMAN. What do we get in the way of income from the sale of the Official Gazette?

Mr. ALLEN. Of the total issue of the Gazette there is given to each Member of Congress and each Senator the right, by statute, to designate eight libraries which may receive it, and one personal copy. Those are very generally used and in that way it is sent very widely over the country. That is a good thing. A certain portion of the total issue is sold within this country at \$5 and abroad at \$10. Of course those prices are not large enough to pay the real cost of it, but its cost should be considered as properly incurred for the purpose of instructing workers in all the arts by showing them what it is that we have done, because the function of the Patent Office is not only to secure the individual in his private right, but to instruct all the workers of those arts of the new things in their arts that they may profit by them and that those arts may move forward. The Congressional distribution and the sale of the Gazette at a cheap price is in the interest and direction of general education in the arts and that is finally and in its best aspect the great work of our Office.

The CHAIRMAN. Can you tell us the amount of money secured by the way of subscriptions?

Mr. ALLEN. I do not remember.

The CHAIRMAN. Will you kindly send us that data when you reach the Office?

Mr. ALLEN. Yes, sir.

Mr. VAN VOORHIS. Why is it that for seven years past your estimate has been \$100,000, when you come in every year with a large deficiency? Here you are asking for a deficiency of \$80,000.

Mr. ALLEN. I have only been Commissioner three years, and I asked that very question of the Assistant Secretary of the Interior when I first came there, and he said it was thought the better way—he had once served on the Appropriations Committee—to come in with a portion of it in a general bill, and after the year had half lapsed or more, and the necessities of the year could be more accurately determined, to come in with a later and better view as to our ultimate necessities, and ask for it by way of deficiency. I will say, however, that at the present time, the deficiency bill coming so late in the year as this, we shall have spent what we got by the general bill too soon or get this too late to make our mode of estimate appear creditable. That is the reason.

Mr. VAN VOORHIS. Then, when you make the estimates, you do so knowing that you will be compelled to ask for a deficiency?

Mr. ALLEN. Appreciating the fact that our work grows throughout the year and can not be accurately estimated in advance, it is sub-

ject to conditions forced upon us by the inventors in the country, who come in on their statutory rights, which we can not control.

The CHAIRMAN. The next item is "For producing copies of drawings of the weekly issues of patents; for producing copies of designs, trade-marks, and pending applications, etc.," \$30,000?

Mr. ALLEN. That represents, in a general underlying thought, just what I have said in regard to the other items; it represents growth in our work and growth in our necessities on that account.

The CHAIRMAN. Let me understand. "For producing copies of the weekly issues of patents; for producing copies of designs, trade-marks, and pending applications, and for the reproduction of exhausted copies of drawings and specifications." Do you reproduce these copies for persons outside of the Patent Office, or for use outside of the Patent Office?

Mr. ALLEN. Yes, sir; that item for the reproduction of exhausted drawings and specifications represents a commercial transaction in which the Office is engaged, and, as I remember now, we extracted from our files, and almost all of them for sale, 1,800 copies of patents last year and sold them. Those copies were sold at 5 cents each, or at 3 cents each for several classes, or at 2 cents each if ordered by class. There is a large business in furnishing copies of patents for the instruction of people in the arts, and of those who apply for other patents. All the money spent for that purpose is to make ourselves stock in trade. We sell in that way, and what we receive from the sales passes over to the hands of the Government.

The CHAIRMAN. The receipts from this item are simply covered into the Treasury and we appropriate in this bill to pay for it?

Mr. ALLEN. Yes, sir.

The CHAIRMAN. Do you know how much you received from this particular item during the last fiscal year?

Mr. ALLEN. I do not carry the figures in my mind.

The CHAIRMAN. Please send that information when you send the other in regard to the Official Gazette.

Mr. ALLEN. Yes, sir.

The CHAIRMAN. Document No. 665 comes from the Treasury Department asking for an appropriation of \$1,200 to pay the expenses of a representative or delegate to the international conferences at Berlin, Germany, and at Berne, Switzerland. Mr. Commissioner, please explain to us the purposes of these two conferences and the necessity for this Government being represented.

Mr. ALLEN. The first of the conferences is to be held at Berlin, Germany, from the 24th to the 30th of May, this year. That is the seventh congress of the Association for the Protection of Industrial Property, and is an international gathering or congress of the constituent nations of Europe and this country and of the world who are most interested in the protection of industrial property, and that term is used technically and means patents, trade-marks, and copyrights. Those are the subjects.

The CHAIRMAN. Those are the subjects to be discussed?

Mr. ALLEN. Those are the subjects for discussion. The seventh congress has been preceded by others held at Berlin, Brussels, Paris, one at Madrid, and I think one at Rome. We have been represented at most of the congresses—that is, since the time of our adherence. The subjects are of wide and general interest. It has been thought

advisable that we should be represented and that we should adhere to that convention. I believe it is of value to our interests that we should be represented.

The CHAIRMAN. Now, as to the next convention?

Mr. ALLEN. The next convention will be held at Berne, in Switzerland, on the 1st day of August of this year, and that is a convention of nations, all members of this other international conference, but who meet there for the discussion of a method by which procedure may be assimilated to one type in all their different operations. It is a worthy object.

The CHAIRMAN. Having in view this particular line of work?

Mr. ALLEN. The unification of methods of procedure among all these countries and for the production of a single best method of procedure, that is, trade-marks, patents, and copyrights.

The CHAIRMAN. Is it intended to pay any salary or simply pay the expenses of the delegate?

Mr. ALLEN. I have concluded, after talking with the Secretary of the Interior about it, that I should go myself. I shall expect no salary. I should expect to go upon orders and if my current salary should be allowed during my absence there would be no other salary.

The CHAIRMAN. And the \$1,200 would sufficiently cover all expenses in connection with representation at the two conventions?

Mr. ALLEN. I am of the opinion that to go over to the first and wait for the second, the \$1,200 will be more than sufficient and permit a balance to be returned.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,
Washington D. C., April 8, 1904.

Hon. J. A. HEMENWAY,
*Chairman Committee on Appropriations,
House of Representatives.*

DEAR SIR: Complying with your request made this morning I have the honor to state that it is reported to me that the amount received for copies of the Official Gazette of the United States Patent Office and indexes during the fiscal year ending June 30, 1903, was approximately \$14,000, and that during the same period there was received for printed copies of patents \$64,907.01.

Yours very truly,

F. I. ALLEN,
Commissioner.

GEOLOGICAL SURVEY.

STATEMENT OF MR. CHARLES D. WALCOTT, DIRECTOR.

INTERNATIONAL SEISMOLOGICAL CONFERENCE.

The CHAIRMAN. On page 59 is an item "For the necessary expenses of fulfilling the obligations of the United States as a member of the International Seismological Association, including the annual contribution to the expenses of the association and the expenses of the United States delegate in attending meetings of the commission, permanent or executive committee of the association, at Strassburg,

Alsace, or elsewhere; to continue available until the close of the fiscal year 1905, \$1,300." Tell us about that, Mr. Director.

Mr. WALCOTT. Mr. Chairman, the German Government, as will be found on pages 46 and 47 of House Document No. 652, asks that our Government become a member of this International Seismological Conference. The object of that work is the study of earthquakes and earthquake phenomena throughout the world. Mr. Harry Fielding Reid, of Johns Hopkins University, has written a long letter here about it, and he is an expert in that department in this country. He has stated the general object of the work, and what they would do, and what they propose to do. The object of it is to determine the regions liable to earthquakes, especially in relation to laying oceanic cables. The value of such research was illustrated in the case of the Isthmian Canal question, when it was determined that the Nicaragua route was in the district of earthquakes in the past and likely to be in the future. The object of this appropriation, as is stated very fully in this document, is for the United States Government to join in this work with the various foreign countries mentioned here—Belgium and the Congo States, Bulgaria, Great Britain, Italy, the Netherlands, Austria-Hungary, Portugal, Roumania, Russia, Sweden, Switzerland, Spain, the Argentine Republic, Chile, Japan, and Mexico.

The CHAIRMAN. You would not have time yourself to go?

Mr. WALCOTT. Oh, no; we would send Mr. Reid. It is simply that broad question, and they naturally submitted it to the Geological Survey, and I have given my report here.

FIRE-ALARM SYSTEM.

The CHAIRMAN. The next item is, "For the installation of a fire-alarm system, necessary for the better protection of the survey property from fire, such as furniture, instruments, laboratory apparatus, library, records, manuscripts, original map sheets, etc., \$500."

Mr. BURKETT. You had your fire.

Mr. WALCOTT. Yes; Mr. Burkett says we had our fire, and we may have another one. It is a very dangerous building. We have had estimates made of fire protection, and we find it will cost \$500 to install this system of instantaneous alarm throughout the entire building.

The CHAIRMAN. Will it cost anything after it is installed?

Mr. WALCOTT. No, sir; nothing whatever.

STEEL SHELVING, ETC.

The CHAIRMAN. The next item is, "For purchase of additional steel book stacks, shelving, and map cases for the library to replace the wooden shelving and cases now in use, for the fiscal years 1904 and 1905, \$7,000."

Mr. WALCOTT. Three or four years ago we had an appropriation for installing steel bookcases in the library, in the addition to the building. That was done, and we found it to be very effective and thoroughly practicable. We want to finish that shelving and also substitute steel cases for the wooden cases. At the time of our fire the maps in the wooden cases were very largely destroyed and seriously injured. A metal case was not injured at all. The flames had no effect upon it. In the case of the wooden cases, they got on fire and added to the fire.

It is simply to substitute steel for these wooden cases. I will say that these library book stacks and these steel cases and everything we are getting are with a view in the future to getting into a fireproof building and reducing the risks to the minimum.

The CHAIRMAN. All this could be used?

Mr. WALCOTT. There is nothing estimated for and planned for but what could be used in the permanent building.

Mr. UNDERWOOD. These do not seem to be deficiencies. Why did you not put them in the sundry civil bill under your regular appropriations?

Mr. WALCOTT. We have asked for 14,000 feet of additional space, which is being constructed on the wing of the building we are now occupying. The sundry civil bill carries appropriations for that, and we could not well anticipate furnishing things we had no authority to rent. It was left in that way, and it was not certain whether this building would be built. It is now in course of erection, to be finished the 1st of July; and now, after that point has been settled we are asking this as a part of the general furnishing and equipment of the building. This fire coming in December started us to a realization that we were in a building that could be consumed very rapidly. I will say that we have the most extensive collection of maps in our Survey of almost any survey of its kind, and of any library in this country, at least, if not in the world, and we do not want to lose it. We are trying to represent in the department of geology and the allied sciences the collections of books and maps and pamphlets which, if they would not be gathered there, would be gathered in the Library of Congress. The Library of Congress is cooperating with us in this work. Our catalogue is their catalogue, and the whole thing is being done in collaboration with the Librarian of Congress.

PURCHASE OF FURNITURE.

The CHAIRMAN. The next is, "For purchase of rugs, carpets, linoleum, desks, chairs, and tables, etc., \$10,500."

Mr. WALCOTT. That is for furnishing the new part 14,000 feet of floor space; nothing beside the new addition. That which was destroyed by fire has been provided for, and this is for the new part.

The CHAIRMAN. Go to the next item.

TESTING COALS AND LIGNITES, LOUISIANA PURCHASE EXPOSITION.

Mr. WALCOTT. On page 62, Mr. Chairman, is the item which was explained when the first appropriation of \$30,000 was made, to determine the fuel value of coals and lignites. This provides for carrying on this work.

PAYMENT TO EARLE GOLDSMITH.

The CHAIRMAN. Now, on the preceding page you have one little item, "For payment of amount due Earle Goldsmith, of Wayne, Mich., as satisfaction of a judgment in amount obtained against Robert L. Muldrow, topographer in the United States Geological Survey, for damages done to horse and wagon hired by him for use in the discharge of his official duties, \$50," and another, "For payment of costs of court trials in said case, etc., \$107.77."

Mr. WALCOTT. On pages 47 and 48 of this document, No. 652, that is fully explained. A suit was brought against this member of the Survey, who hired a horse and buggy, and the horse got to kicking and kicked the buggy to pieces. He found out it was a vicious horse. He went through the suit and defended the suit, and finally a judgment of \$50 was given against him. So far as we could learn from the district attorney, Mr. Muldrow did not seem to have been responsible for it, but in the view of the jury there, this man should have his \$50. The whole correspondence is presented here on page 47 of this document.

INDIAN AFFAIRS.

CONTINGENCIES.

STATEMENT OF MR. SAMUEL E. SLATER, FINANCIAL CLERK, INDIAN OFFICE.

The CHAIRMAN. Please turn to page 62 of the bill, Mr. Slater, to the item to supply deficiencies in the appropriations for "Contingencies, Indian Department, including all objects mentioned under this title of appropriation in the Indian appropriation act for the fiscal year 1904, \$6,000."

Mr. SLATER. Owing to the late investigations in the Indian Territory this appropriation has been largely drawn upon to pay the expenses thereof, etc.

The CHAIRMAN. Have you anything in addition to the note, there, to offer in explanation of the deficiency?

Mr. SLATER. That comprises generally the reasons for the deficiency. The contingent fund is a kind of omnibus appropriation that carries a good deal with it, and out of that we have to take money to pay anybody engaged in special work. This \$6,000 was necessitated principally by the employment of Mr. Bonaparte to go down there and investigate the Territory. It cost \$6,000 to do that; and then we had down there the sulphur springs, and there was nobody in charge of it, and we had to employ an inspector to go there.

The CHAIRMAN. How much did you pay Mr. Bonaparte?

Mr. SLATER. I think the two of them cost \$6,000.

The CHAIRMAN. Who was with him?

Mr. SLATER. A man by the name of Woodruff.

The CHAIRMAN. How long were they there?

Mr. SLATER. I could not tell you that. They were under the orders of the Secretary entirely.

The CHAIRMAN. Will you please ascertain when they were employed and how long they served for the \$6,000, and what they did?

Mr. SLATER. My recollection is that they were paid a lump sum, each one. The whole arrangement was made by the Secretary of the Interior, Mr. Chairman.

The CHAIRMAN. Please have the Secretary of the Interior advise us by letter so that the letter will get to us by Monday.

Mr. SLATER. How long he was employed?

The CHAIRMAN. Yes, and how much he was paid.

Mr. UNDERWOOD. And the necessity for the employment.

SUPPORT OF SCHOOLS.

The CHAIRMAN. The next is, "For support of Indian day and industrial schools and for other educational purposes, \$50,000." You had \$1,240,000 for the current fiscal year. The note says this additional amount is required by reason of the increase of the day and industrial schools. How many schools have you added to the number?

Mr. SLATER. I could not give you that detail. I came away from the office in quite a hurry.

The CHAIRMAN. Please make a note of it, and give us the number of schools you added, and the amount you have on hand unexpended of this fund, and such other information as you can give us showing the reasons for the deficiency.

Mr. SLATER. This deficiency is apparent rather than real, and by comparing the expenditures of this year with last at the same ratio it will be seen that it will take at least this much more.

The CHAIRMAN. We want the reason why. That is the main thing we are after, and how you expended the money; that is, if there are more schools and more pupils to take care of, we want to know, and why.

Mr. SLATER. By Monday?

The CHAIRMAN. Yes; by Monday, if you can not get it up to-morrow afternoon.

Mr. SLATER. There are some 200 and odd schools paid out of the appropriation, and it may be a little difficult to get the details right away.

CONSTRUCTION, PURCHASE, AND LEASE OF SCHOOL BUILDINGS.

The CHAIRMAN. Also for the next item, "For the construction, purchase, lease, and repair of school buildings," etc., \$60,000. Point out why that deficiency should be granted, and the amount you have on hand of the fund, and the reason why you have had to advance more this fiscal year than you did last.

GENERAL INCIDENTAL EXPENSES, INDIAN SERVICE IN MONTANA.

At the bottom of page 63 is an item for general incidental expenses of the Indian service in Montana, etc., \$300.

Mr. SLATER. That is a matter of Treasury bookkeeping. They decided that the money belonged to one year, when we thought differently. This is really no expenditure. It is simply an adjustment of an account.

The CHAIRMAN. The next item, at the top of page 64, is "For general incidental expenses of the Indian Service in Montana, including traveling expenses of agents and pay of employees, \$500." You have had unusual expenses in bringing these Indians to Washington. Is that the only reason for that? You might go into that, too, as you are going to write us, and tell us why that needs a deficiency. And so also with the next item, "For survey and subdivision of the Indian reservations, \$4,000."

Mr. SLATER. Very good, sir.

The CHAIRMAN. Write us, in as much detail as possible, the reasons for these deficiencies.

Memoranda relating to deficiency estimates, Indian Affairs, April 11, 1904.

CONTINGENCIES, INDIAN DEPARTMENT.

This fund is for—

1. Such expenses as can not be enumerated or anticipated, and to meet such expenses as the law requires to be incurred, for the payment of which no other appropriation has been provided.

2. Pay and traveling expenses of five special agents.

3. Traveling expenses of the Commissioner of Indian Affairs and of Indian agents in those States having no incidental fund. (See p. 188, Book of Estimates.)

4. Pay of employees at agencies where there are no other funds available.

The principal items of expense for the current fiscal year are estimated as follows:

Pay of five special agents.....	\$10,000
Their per diem (if on duty 335 days).....	5,025
Traveling and incidental expenses (about).....	5,000
Pay of employees.....	10,000
Traveling and incidental expenses of agents (about).....	9,000
	<hr/>
	39,025

Leaving apparently but \$975 for the traveling expenses of the Commissioner of Indian Affairs and such contingencies as can not be enumerated or anticipated.

The calls upon the contingent fund are constantly increasing and there is no prospect of their diminishing for some time to come. The changed conditions, the segregating of tribes, the investigation and determination of important matters, necessitates a great deal of special work calling for a high grade of ability, and special fitness, for which there is no provision elsewhere. The result is, that while there is little if any increase in the ordinary current contingent expenses, the expenditures for employees and special miscellaneous purposes have very materially increased. A case in point is the investigation of affairs in the Indian Territory, which, for obvious reasons, is confided to special hands.

The principal unusual expenditures out of this appropriation so far this year are as follows:

Superintendent of logging in Wisconsin.....	\$4,700.00
Investigating affairs in Indian Territory.....	6,000.00
Inspector in charge Sulphur Springs, Ind. T. (about).....	1,200.00
General supervisor reservations.....	1,700.00
Expenses preparing loyal Creek rolls.....	800.00
Miscellaneous.....	400.00
	<hr/>
Total.....	13,800.00

The appropriations have been as follows:

Indian bill for 1904.....	40,000.00
Urgent deficiency bill.....	15,000.00
	<hr/>
	55,000.00

RECAPITULATION.

Total appropriation.....	\$55,000.00
Obligations:	
Regular expenses.....	\$39,025.00
Unusual expenses.....	13,800.00
	<hr/>
	2,825.00

Leaving for the remainder of the year..... 2,175.00

Not enough to meet the expenses of the last quarter.

The Office uses this appropriation as economically as possible, but of recent years the amounts appropriated in the regular Indian bill have not been enough. It has hesitated to increase the estimates, hoping to get along from year to year with the amount estimated for. Experience, however, has shown that this is impossible.

For a number of years past it has been compelled to ask for a deficiency.

For 1900 there was a deficiency appropriation of \$7,000; for 1901, \$10,000; for 1902, \$6,000; for 1903, \$5,000.

MEMORANDUM RELATIVE TO DEFICIENCIES.

Indian school support.—Referring to the deficiencies in the item, "For the support of Indian day and industrial schools and for other educational purposes, for the fiscal year 1904," \$50,000 is the amount to be appropriated to cover the probable deficiency. This has arisen partially by reason of the increased cost of subsistence and supplies, which has been general throughout the country. The principal reason, however, for this unforeseen deficiency is owing to the increase in the number of pupils. The appropriation for 1904 was made on March 3, 1903, and it was impossible to foresee so far in advance what the increase might be. The increase of 1903 over 1902 was 262, while the records at present show that there are now in the schools over 1,000 more than there were in 1903. Allowing \$167 per capita for each, these 1,000 pupils require \$167,000.

The balance at the present time is \$150,000. Last year there was expended for the last quarter of 1903, \$200,000. Assuming that the expenditures for the present quarter will be as much, there will be a deficiency of \$50,000. It may be possible, however, to keep the expenditures within the existing appropriation, and of course the Office will do so if no further appropriation is made, even at the expense of the school.

The unexpended balance for the fiscal year 1903, at the present date, is \$46,932.46. If that could be used the present year there would be no need of any further appropriation. To accomplish that it will be necessary to insert a clause reappropriating the unexpended balance of the general appropriation for day and industrial schools, and for other educational purposes, for the fiscal year 1903, and making it available for the fiscal year 1904. In that event the deficiency item may be stricken out.

Indian school buildings.—The amount asked for the deficiency in the item "For construction, purchase, lease, repair of school buildings, and sewerage and water supply, etc., for the fiscal year 1904," is \$60,000.

The statement in the note that this additional amount is required for the reason that the buildings to be built from the 1903 appropriation were not commenced until after the present fiscal year gives practically in a nutshell the reason for this deficiency. The Indian school at Zuni, N. Mex., was under contemplation during the past fiscal year, 1903. Plans and specifications were prepared, engineers sent to the grounds who laid out the sewer and water systems, and afterwards, in March, 1903, they were forwarded to the Department for approval and the proper authority to advertise. There occurred then a delay by reason of the fact that the Department was not satisfied that the site was a proper one from the standpoint of a sufficiency of water. The consequence was that there were a number of delays in order that this problem could be satisfactorily solved.

The project also was not hurried, in all probability by reason of the fact that the matter of a large dam to hold the surplus water in this section was under consideration, and if it was constructed would be of vast advantage to the school, the Indian Office, however, contending that even if the dam was not built the school should be constructed anyhow, as there was a sufficiency of water for domestic purposes, being about all that could be asked for in this arid section. Subsequently the Department, upon reports of its inspecting officials, was satisfied that the site proposed and the plans were sufficient, and authority was granted for advertising, which was therefore carried out, the contracts for the buildings amounting to \$56,415.34. The intention was to charge these buildings to the appropriation for the fiscal year 1903, but unfortunately before the contract could be executed and approved—the contractors living on the other side of the continent—1903 expired, and the money intended to be used for these buildings lapsed into the Treasury.

The amount of repairs to the various Indian school buildings appears to increase each year. These plants, a great many of which are old abandoned military posts, necessarily demand increasing efforts and expenditures to keep them in condition. These items have been larger than was anticipated by the Office, and, in connection with the Zuni project, have caused this unavoidable deficiency of about \$60,000. The unexpended balance of this appropriation for 1903 at the present time is \$42,484.65; the balance on hand for the fiscal year 1904 is \$155,026.39. But there are obligations outstanding against this sufficient to use it all up and probably about \$60,000 besides.

Incidentals in Montana.—The appropriation under this head for 1904 is \$8,500. Of this, \$6,000 is used for pay of necessary employees at Crow Agency, leaving for the general incidental and traveling expenses of agencies, \$2,500.

As there are six large agencies in Montana, this sum allows a little over \$410 to each agency. This year the necessity arose to bring five of these agents to this city on important matters pertaining to their agencies, and the result is that there is not quite enough to meet all legitimate demands. For that reason a deficiency of \$500 is asked for.

GOVERNMENT HOSPITAL FOR THE INSANE.

STATEMENT OF DR. WM. A. WHITE, SUPERINTENDENT.

CURRENT EXPENSES.

The CHAIRMAN. For current expenses of the Government Hospital for the Insane, on page 50, you want \$40,000 deficiency?

Doctor WHITE. Yes, sir; that is a deficiency that arises every year in the appropriation fund because of the impossibility of foreseeing how many patients have to be treated. As is shown in this note here, we have already had added to our population 125 more patients than the maximum number estimated when the annual appropriation for 1904 was presented to Congress, and this deficiency is to cover the excessive population, together with the additional expenses rendered necessary in opening up the new plant.

The CHAIRMAN. How much of it arises from that excess of population?

Doctor WHITE. To cover the additional expense, approximately, of keeping up to the present time 125 extra people.

The CHAIRMAN. The greatest portion of the amount is for keeping extra people?

Doctor WHITE. Extra people; yes, sir,

PAINTING NEW BUILDINGS.

The CHAIRMAN. "For painting new buildings, \$15,000."

Mr. BURKETT. Did we not provide for that in the urgent deficiency bill?

Doctor WHITE. Thirty thousand dollars I asked for in the urgent deficiency bill. It was cut down to \$15,000, and I ask for the other \$15,000 now. Fifteen thousand dollars more will paint all the buildings.

PAYMENT OF BALANCE DUE TO ARCHITECTS.

The CHAIRMAN. The next is "To pay the balance due the architects under their contracts made with the Secretary of the Interior," etc., \$3,500.

Doctor WHITE. I am not responsible for that figure. That figure was introduced at the request of the Department. Mr. Evans was the disbursing agent of this fund for the extension of this hospital. The figures have been changed, and we have been over it and over it, and the deficit has been changed by them two, or three, or four times, and finally I put this item in at their request, and I do not know anything about it.

PUBLIC LANDS SERVICE.

STATEMENT OF MR. A. B. WHITE, CHIEF OF THE DIVISION OF ACCOUNTS, GENERAL LAND OFFICE.

REPRODUCING PLATS OF SURVEYS.

The CHAIRMAN. On page 54 of the bill before you, Captain, is the item "Reproducing plats of surveys." The appropriation is made to

continue available for the fiscal years 1904 and 1905. Explain the necessity of continuing that appropriation.

Mr. WHITE. That is explained in the note appended to the statement. The contractors, Messrs. Guggenheimer, Weil & Co., were burned out in the Baltimore fire, and the establishment destroyed, and it will take some time to rebuild and get to work again, and this is to continue the appropriation so that they can fulfill their contracts. There is no increase in it.

EXPENSES OF INSPECTORS.

The CHAIRMAN. The next item is for expenses of inspectors, "For per diem in lieu of subsistence," etc., \$1,050.

Mr. WHITE. That is made necessary by the growth of the business of the Land Office and the increasing investigations which we have had to make this year.

BOUNDARY LINE, COLORADO, NEW MEXICO, AND OKLAHOMA.

The CHAIRMAN. The next, on page 56, is the boundary line, Colorado, New Mexico, and Oklahoma, to reimburse Arthur T. Kidder, etc., \$993.89.

Mr. WHITE. This appropriation was made July 1, 1902, and the Secretary of the Treasury designated it as of 1903. These services, as you will see, were rendered after the expiration of the fiscal year, and the money can not be paid outside the fiscal year. The service was rendered during the fiscal year 1904 instead of the fiscal year 1903.

CLASSIFICATION OF MINERAL LANDS IN MONTANA AND IDAHO.

The CHAIRMAN. The next is for the classification of ascertained mineral lands in Montana and Idaho, \$114.50.

Mr. WHITE. Under the act of June 6, 1900, this commission ceased. The commissioners in the Helena and Missoula land districts, in the State of Montana, and in the Coeur d'Alene land district in the State of Idaho, ceased on the 30th of June 1901. One of the provisions was that when they classified these lands they should publish in weekly newspapers the classification, and give the lands that were designated and found by them to be mineral. These bills were not presented until after the expiration of that year. They were presented in July, 1902.

Mr. CLARVOE. They were never included in any deficiency bill heretofore submitted. They have been pending before the Department, and the appropriation has lapsed and gone back into the Treasury.

The CHAIRMAN. The bills are right?

Mr. CLARVOE. Yes, sir; the reason we can not pay them is that the appropriation has lapsed into the Treasury.

The CHAIRMAN. The next is an item for reimbursement to George B. Rogers. That explains itself. The next is to reimburse the Santa Fe Pacific Railroad Company. I guess your note fully explains that also. After that is payment to James Deitrick. There is a note there, too. I guess these notes cover all these items fully.

MAPS OF THE UNITED STATES.

On page 48 there is an item, "Maps of the United States: For rollers and other material, and for labor required for mounting maps,"

etc., \$8,960, "to be expended under the authority of the Secretary of the Interior," etc.

Mr. WHITE. That is not an appropriation over which we have control. That came to you from the Secretary's office direct. The Secretary of the Interior will have to explain in reference to that.

APRIL 9, 1904.

NAVY DEPARTMENT.

STATEMENT OF HON. W. H. MOODY, SECRETARY OF THE NAVY.

The CHAIRMAN. Please take Document No. 661 and briefly explain to us the reasons for the deficiencies asked for. The first item is on page 19 of the document.

CONTINGENT EXPENSES.

Secretary MOODY. The item "Contingent expenses" of the Navy Department, the note explains thoroughly the reason for that. As you know, we have moved all our outlying possession to the Mills building, and it required file boxes and furniture and shelves, etc. We procured that out of the contingent fund as far as it went, but the \$2,000 seems to be necessary to complete the work. It has been done very carefully. Our whole appropriation for the Navy Department "contingent" is only \$12,000.

NAVAL ESTABLISHMENT.

TRANSPORTATION AND RECRUITING.

The CHAIRMAN. Take the next item.

Secretary MOODY. About all we would say concerning that item is that as our men and the stragglers and deserters increase, not increase relatively to the total number, but increase positively in number, the cost of transportation from one place to another increases.

The CHAIRMAN. You can not ascertain that in advance?

Secretary MOODY. No; that can not be ascertained in advance. Of course requests are often made for the transfer of men from one place to another. If we complied with all of them the increase would be great indeed. So far as we can write a letter and say it can not be done, we do so. Nevertheless there has to be some transportation growing out of the desire to oblige the relatives and friends and representatives of the men in the service, and that costs something.

I went through their estimates and what they had expended up to the present time, and what they would be likely to expend for the proportionate period of the fiscal year that is left, and assuming the same rate of expenditure, this amount would be required.

NAVAL WAR COLLEGE.

The CHAIRMAN. The next item is "Building and furnishing a fire-proof annex to the college, with a covered connecting bridge."

Secretary MOODY. That illustrates the fault of administration, for which the Department is responsible. Sixty thousand dollars was appropriated for an annex to the War College. It was not suggested in so many terms that the limit of cost was \$60,000, but I have assumed that it is the intention of the committee, when they appropriate a given sum for doing a given work that they intend that it shall be done within that sum. Now, an estimate was brought in which exceeded the \$60,000. I told them that they must modify their plan so as to bring it within the \$60,000. Upon investigation, however, I find that the modification of the plans was made by leaving out some things which would later have to be put in; that is, there was no real modification of the plan. Now, I find that the whole of this item, which is not a large item, is accounted for by those considerations. It is bad administration. I have called it very emphatically to the attention of those responsible for it, and that is all I can say. It is required to finish this building. It ought not to have been required.

The CHAIRMAN. Is the building in the course of construction?

Secretary MOODY. It is practically done. I see no way of escaping it, and am only glad that it is not more than it is. It is explained here in the letter on page 5, and the items are given, with the exception of some grading, which was not originally contemplated.

The CHAIRMAN. What would be the effect if we failed to make the appropriation?

Secretary MOODY. The effect would be, of course, that this building would be left without gutters and flooring on some of the rooms, without book stacks, without basement windows and doors, plumbing fixtures, etc.; that is, the building would be left incomplete.

The CHAIRMAN. And could not be used?

Secretary MOODY. It could not be profitably used without this expenditure.

The whole of it is not attributable to that mismanagement. For instance, the first item of \$3,000 for grading was not contemplated to come within the original estimate.

The CHAIRMAN. So there is really only a difference of \$9,000?

Secretary MOODY. Yes, sir.

EQUIPMENT OF VESSELS.

The CHAIRMAN. The next item is "Bureau of Equipment: Equipment of vessels, \$300,000." Please explain that, Mr. Secretary.

Secretary MOODY. I went into that very carefully with the new chief of the Bureau of Equipment. The language of the appropriation indicates the general purpose for which it is expended, and these various items tend to increase as our fleet increases and as the movements of our fleet are increased.

The amount of such expenditures can not be ascertained in advance with accuracy; you can only estimate for them, and it has been the policy of the Naval Committee to give the smaller suggested sum in order that the prospect of a deficiency might be an incentive to economy. All I can say about it is, I have been through the item with great care and I do not see how we are going to escape needing that amount of money during the balance of this year.

The CHAIRMAN. How many of these ships will be put into commission?

Secretary MOODY. I have here a table showing the vessels in commission on the 1st day of January of the years 1901, 1902, 1903, and 1904. If you please, I will annex it to my statement. In the meantime, I will say that on January 1, 1901, we had 93 vessels in commission; 1902, 79 vessels; 1903, 102 vessels, and 1904, 103 vessels. That, however, does not tell the whole story because the smaller vessels have gone out of commission and have been replaced by larger and more important ones, and, of course, the expense of maintenance increases, so that in 1901 we had horsepower afloat, in round numbers, 269,000; in 1902, 286,000; in 1903, 405,000, and in 1904, 525,000. So that we have more than doubled the horsepower of the ships afloat between the 1st of January, 1901, and the 1st of January, of the present year. Every expenditure shows the effect of that increase in the horsepower of the fleet and that increase, taking the tons of displacement, would be substantially the same. I will annex this statement, with your permission, to my remarks.

The statement submitted by Secretary Moody follows:

Vessels in commission on January 1, of various years, as given by the Navy Register.

Stations.	1901.		1902.		1903.		1904.	
	Num-ber.	Horse-power.	Num-ber.	Horse-power.	Num-ber.	Horse-power.	Num-ber.	Horse-power.
North Atlantic.....	14	56,166	5	36,823	15	118,989	8	91,994
							10	45,379
							4	15,810
Pacific	5	28,650	6	40,975	4	27,382	7	37,208
Asiatic	52	125,092	39	95,513	27	64,802	10	50,180
							4	31,980
							10	9,287
South Atlantic.....	2	13,030	1	4,030	5	22,016	4	21,276
European			3	19,168	4	28,546	3	30,728
Special service.....	10	18,968	9	13,168	11	16,803	19	22,918
Training service.....	9	17,770	15	65,417	15	25,190	7	50,769
							2	1,900
Unassigned	1	9,378	1	11,111	6	25,190	2	11,564
Torpedo flotilla.....					8	29,988	5	40,000
							6	47,500
Special torpedo service					4	26,500	2	14,000
Total.....	93	269,044	79	286,073	102	405,166	103	525,866
Appropriation, steam machinery.....		\$2,560,000		\$3,245,000		\$3,405,000		\$3,405,000

Tugs at navy-yards and vessels at the Naval Academy are not entered in the above table.

The CHAIRMAN. The next item is "For hemp, wire, iron, and other materials for the manufacture of cordage, anchors, etc., \$50,000." That is an ascertained amount for 1903?

Secretary MOODY. Yes, sir; it is simply for bills which have been duly ascertained and are ready to be paid.

COAL AND TRANSPORTATION.

The CHAIRMAN. The next item is "Coal and transportation: Purchase of coal for steamers' and ships' use and other equipment purposes, including expenses of transportation, storage, and handling the same, for the fiscal year, 1904, \$190,000."

Secretary MOODY. Yes, sir. The Bureau asked me for a considerable greater sum than that and we went through it and I believed we could keep up our coal supply by the expenditure, between now and the 1st of July, 1904, of \$190,000 more than we have on hand. Of

course, we could get along and we would not be out of coal if we did not have any more money, but the desire is to keep up the supply. Large expenditures for coal have been incurred for the sake of storing large quantities of coal at different parts of the globe where we have coaling stations, and if the bill passes and becomes a law, as I suppose it will, requiring us to transport coal in American bottoms, this item will have to be considerably increased, because the transportation of coal will cost us more.

The CHAIRMAN. American bottoms are more expensive than foreign bottoms?

Secretary MOODY. Yes, sir.

PROVISIONS.

The CHAIRMAN. The next item is "Bureau of Supplies and Accounts—Provisions, Navy Department."

Secretary MOODY. Yes, sir; that is for the provisions and commuted rations of the men of the Navy and officers. This makes the total amount of the appropriation just that estimated for at the beginning of the year. The Naval Committee cut off exactly \$500,000. It, of course, is a matter of computation.

The CHAIRMAN. You calculated that you could take care of these men for a certain figure and they thought differently?

Secretary MOODY. They did it in pursuance of the principle so often followed by the committee—the desire to appropriate under rather than over, in view of the fact that we have the deficiency bill and that that course might lead to economy in expenditures. They saw fit to cut it down, but in this case it could not be cut down. As you all know, our ration is very expensive; it is undoubtedly the best in the world.

NAVAL SUPPLY FUND.

The CHAIRMAN. The next item is "The accounting officers of the Treasury are hereby authorized and directed to transfer from 'Pay of the Navy, 1898-99,' \$1,500,000, and from 'Provisions, Navy, 1902,' \$500,000, to the naval supply fund; in all, \$2,000,000."

Secretary MOODY. That item requires considerable explanation. As you observe, it is not an appropriation, but a reappropriation of funds which otherwise would lapse into the Treasury on the 1st of July. Moreover, it does not represent any expenditure at all because of the nature of the supply fund.

I will briefly explain it as well as I can. There is what is called a naval supply fund, amounting to \$2,750,000. That is the sum of money which is used as a capital from which the Paymaster-General can keep stores, so to speak. He has in his naval-supply fund a great assortment of articles of a standard character which are sure to be needed by the Navy from time to time. They are all purchased after advertisement and competition. If any one of the bureaus of the Navy needs anything of that kind, they take it from the naval supply fund and reimburse that fund from their own appropriation. For instance, if a certain bureau needed a lot of nails, they make the requisition for them from the naval-supply fund. They are delivered to them, and then that fund is reimbursed by a transfer of the appropriation from the Bureau which has asked for the nails. So, as I say, it does not represent any increase in expenditure.

I believe that that is a good thing. I have been convinced that it is a good thing and that it would be wise to increase the capital of that fund to this extent. The Naval Committee, however, has not been convinced of it, fearing that the thing might go on like a man in business who allows his stock to get down in fact, while his bookkeeping shows that he has still got it, or that the stock has deteriorated and that there is not a sufficient provision for taking stock. Those reasons have led the Naval Committee not to do this. When the Paymaster-General wanted to bring it before the Committee on Appropriations I said: "The Committee on Appropriations will not take up this subject which the Naval Committee have turned down." He then said: "I am sure the Naval Committee will ask them to do so." I said, "Well, if you feel that way, I will let you submit it to the Committee on Appropriations upon the condition that I shall say to them that they shall not consider it unless the Naval Committee comes before them and asks it to be done." Unless the Naval Committee, or Mr. Foss, or some one representing the Naval Committee asks you to do this thing I would respectfully advise that you give it no more consideration.

The CHAIRMAN. This would simply add \$2,000,000 to the capital of the fund and allow them to accumulate a larger stock of supplies?

Secretary MOODY. Yes, sir.

The CHAIRMAN. Which, in your judgment, is a good thing to do?

Secretary MOODY. Yes, sir; I think it is a good business. I think you get cheaper prices, and I am satisfied the safeguards around the fund are sufficient to preserve it in good condition. There is never an annual accounting of stock taken, but nevertheless at each individual yard there is an accounting of stock; but, as I say, I do not think the committee should be burdened with that matter unless the Naval Committee asks you to it.

STEAM MACHINERY.

The CHAIRMAN. The next item is for steam machinery, \$600,000.

Secretary MOODY. That is an item that has troubled me a great deal. It is a large item of deficiency. I have given it very considerable examination. The cruising of vessels and the general activity of course costs money. The repairs of course increase as the horsepower, a statement of which is now in the record, increases. We saw early in the year that this appropriation was not going to be adequate for the Bureau of Steam Engineering. I therefore directed them to use the utmost economy, and to cut down the work wherever practicable. This appropriation is, roughly speaking, expended one-half for labor and one-half for material.

Since 1899 the average amount expended for labor has been 49.5 per cent, and the rest goes for material. Of course that expenditure is distributed throughout the naval stations everywhere. The appropriation really has not increased, I think, in accordance with the increase of the horsepower of the Navy. In 1899 to 1900, we had, roughly speaking, \$2,600,000 for that appropriation; next year we had the same; the next year we had \$3,250,000; and the next year—that is, the last year—we had \$3,405,000, and the current year we also had \$3,405,000. So, you see, these expenditures are not increasing in proportion to the calls that there are upon them. As I said, I asked them to cut those expenditures down. So we reduced our monthly pay roll recently from \$165,000 to \$92,000. That, as you can easily understand,

brought from all places tremendous pressure upon the Department to know why the men were discharged and the work stopped, but we have adhered to it and are basing this estimate upon the theory that we shall continue to adhere to the lower pay roll during the rest of the fiscal year. We reduced our material purchases from \$101,000 to \$50,000 per month, and this estimate is based upon that reduced expenditure. We have now only an available balance on May 1 of \$79,000. If we keep on on that same basis of reducing expenditures, we have got to have, in order to meet the reduced expenditures, \$314,000.

Now, there are various matters which have been held up which seem to be of reasonably vital importance and which ought to be done in addition to the various repairs to ships where there have been estimates for them and the estimates have been approved, and they amount to \$143,000. So that adding those two together you have, roughly speaking, about \$600,000 deficiency. I see no escape from it. I do not think there has been any extravagance; on the contrary, I think there has been great economy. This is based simply on the increase of the Navy.

MARINE CORPS.

The CHAIRMAN. We now come to the Marine Corps. All the Marine Corps items are ascertained?

Secretary MOODY. No, sir.

CLOTHING.

The CHAIRMAN. The next item is "Clothing for the Marine Corps, including all objects mentioned under this title of appropriation of naval appropriation act for the fiscal year 1904, \$25,000?"

Secretary MOODY. You all know the activity of the Marine Corps. I take a great deal of pride in what the Marine Corps has done this year and the very effective way in which it has been done. I think I rather boasted to the committee when I was here before that we had not lost a life on the Isthmus, the most unhealthy place in the world. We have taken good care of them. These deficiencies come because there has been a year of activity which could not have been foreseen, and they are not very large.

TRANSPORTATION AND RECRUITING.

The CHAIRMAN. The next item is "Transportation and recruiting for the Marine Corps, including all objects mentioned under this title of appropriation in the naval appropriation act for fiscal year 1904, \$20,000."

Secretary MOODY. We have managed finally to recruit the Marine Corps up to within a hundred of its authorized strength, roughly speaking, 75,000 men, and to do that it has cost this additional money.

CONTINGENT EXPENSES.

The CHAIRMAN. The next item is "Contingent. For contingent expenses of the Marine Corps, including all objects mentioned under

this title of appropriation in the naval appropriation act for the fiscal year 1904, \$15,000?"

Secretary MOODY. The same explanation I have given in regard to the other items applies to this.

BARRACKS, HONOLULU, HAWAII.

The CHAIRMAN. The next item is "For the erection of temporary barracks for the accommodation of enlisted men of the Marine Corps at Honolulu, Territory of Hawaii, \$5,000?"

Secretary MOODY. I permitted that estimate to come here with considerable reluctance. As you know, it has been the policy for a long time to transfer our naval station from Honolulu to Pearl Harbor. That now seems to be in the distance. We have a small marine guard there living in tents. They have no barracks at all, and it is earnestly pressed upon me that the building of this wooden structure for barracks for the men is important. It is represented that in case they do go to Pearl Harbor later, if this is not worn out before we go there, as it may be, it could be readily removed, and on the ground of humanity I finally agreed to submit the estimate.

Mr. BURKETT. Why do you not go over to Pearl Harbor?

Secretary MOODY. The first thing is that the Army has not completed the deepening of the channel. It is not available for our purposes yet. It is a very bad, crooked channel and has not yet been sufficiently excavated to be used for naval purposes.

MARINE BARRACKS, NAVAL ACADEMY.

The CHAIRMAN. The next item is "For the installation of water supply for fire purposes and flushing system, marine barracks, Naval Academy, Annapolis, Md., \$5,000?"

Secretary MOODY. That is at the Naval Academy at Annapolis. As you know, the marine barracks at Annapolis are not within the general reservation of the Academy, but across the creek. They have not any fire provision there. The purpose of this item is simply to connect those barracks with the general fire protection of the Academy, which is salt water, and use it also for flushing purposes as well as for fire purposes. Now they have fresh water which they use for domestic and flushing purposes. There is no fire department at Annapolis that would be of any consequence, and it seemed to me on the whole that this \$5,000 was a proper precaution to take. It is simply for the purpose of laying the pipe and making the connection.

Mr. BURKETT. How much property have we there?

Secretary MOODY. We have the marine barracks. It is a large, important building. I can not give you the exact figures.

Mr. BURKETT. You get the pressure to throw the water by gravity?

Secretary MOODY. I do not quite know.

Mr. BURKETT. Five thousand dollars will not put up much of a pumping plant?

Secretary MOODY. It is simply to connect with the general fire protection of the academy, simply laying a pipe across the bridge and connecting at Annapolis; it is a force pump, a Holly pump, or something of that sort.

Mr. BURKETT. The city fire department would be expected to take care of it afterwards?

Secretary MOODY. Annapolis has no department that amounts to anything.

Mr. BURKETT. I do not see where they could get any gravity to throw the water on the building; how would they get the water on the building?

Secretary MOODY. I knew there was a good fire plant on the other side and knew that they have the same pressure and the pipe is carried simply across the bridge and connected at Annapolis. It may possibly be pumped into a standpipe and they may get it that way, but I rather assume that it is on the Holly system. This is simply the connecting of a pipe, simply the extension of an existing system.

ENLISTED MEN DETAILED TO HEADQUARTERS.

The CHAIRMAN. The next item is:

That the Auditor for the Navy Department be, and is hereby, authorized and directed to credit in the accounts of the quartermaster, United States Marine Corps, for the first quarter, 1902, under appropriation contingent, Marine Corps, 1898, voucher No. 540, and under appropriation military stores, Marine Corps, 1901, voucher No. 252, first quarter, 1902: *Provided*, That the quartermaster of the Marine Corps be, and is hereby, authorized and directed to pay from appropriations fuel, Marine Corps, to enlisted men of the Marine Corps, employed as clerks and messengers in the office of the commandant and in the offices of the staff officers of the Marine Corps commutation of fuel, at \$9 each per month for clerks and \$8 each per month for messengers, from and after January 22, 1904, when, by a decision of the Comptroller of the Treasury, enlisted men so employed were denied the right to said commutation in said amounts.

Please explain the effect of that provision.

Secretary MOODY. For many years it has been a custom, which I think is a very bad one, that enlisted men should be detailed to the marine headquarters to perform clerical duty. They have always been allowed so much per month as commutation for fuel. If they were in barracks or quarters they would get their fuel, but going up there they do not get it and so they have been receiving the allowance of the sum named here and they ask to continue it. I do not like the system and I have told them that it must stop. Nevertheless, they have some men who have been here for years and it has seemed that it would be something of a hardship for them.

The CHAIRMAN. Is there not some way of regulating their pay so as to avoid increasing it in this way?

Secretary MOODY. Not without disturbing a system which is a century old. As you all know, the Marine Corps gets the Army pay and therefore they get all allowances that are provided for the Army. The Navy proper never had any allowances until the personnel act was passed. Now they have allowances.

The CHAIRMAN. The ruling of the Comptroller results in taking \$9 a month from the pay of one class in the Marine Corps and \$8 a month from another class?

Secretary MOODY. Yes, sir.

The CHAIRMAN. And unless this legislation is enacted their pay will be \$8 and \$9 a month less than heretofore?

Secretary MOODY. Yes, sir; and of course they do not get large pay.

The CHAIRMAN. What amount do they get, do you remember?

Secretary MOODY. No, sir; there are some sergeants, some corporals, and some privates.

The CHAIRMAN. Their pay is not large?

Secretary MOODY. No, sir; it does not compare with the clerks' pay. How much is the pay of these clerks and messengers to whom you propose to continue the commutation of fuel; what is their pay otherwise?

Colonel DENNY. That of the ordinary enlisted man, either a private, corporal, or sergeant.

Secretary MOODY. What would that be, respectively?

Colonel DENNY. Thirteen dollars for the private, \$16 for the corporal, \$18 for the sergeant, and \$24 for a quartermaster-sergeant.

Secretary MOODY. Do they have any other allowance except the fuel and commutation of quarters?

Colonel DENNY. Yes, sir.

Secretary MOODY. What is that, respectively?

Colonel DENNY. A messenger gets \$10 and a clerk gets, I think, \$14.

Secretary MOODY. A private who is a clerk gets \$14 plus \$13—\$27?

Colonel DENNY. Thirteen dollars, his pay, and if he is a clerk, \$14 plus his commutation for quarters, and his commutation for rations, and commutation for fuel.

Secretary MOODY. How does it all compare to the pay of civilian clerks?

Colonel DENNY. A quartermaster-sergeant gets about \$79 or \$80; I think that is exactly his pay and allowances.

Secretary MOODY. Including this allowance now proposed?

Colonel DENNY. Yes, sir.

Secretary MOODY. That is the highest?

Colonel DENNY. Yes, sir. A private would get this allowance plus his \$13, amounting to \$65 to \$68.

Mr. BURKETT. Have you in mind the ration for the messenger and clerk?

Colonel DENNY. I think it is 75 cents a day?

The CHAIRMAN. Please find out what a messenger would get where assigned to clerical duty, including all his allowances and salary, and what a private would get.

Colonel DENNY. A private might be a clerk or a messenger. If he is a messenger or a clerk the difference would be in the commutation of quarters.

The CHAIRMAN. If we enact this legislation these men will only receive what they have heretofore been paid?

Colonel DENNY. Yes, sir; since 1876.

Secretary MOODY. How many of them are there?

Colonel DENNY. I think there is a total of 42 to 45; that includes those at Philadelphia, San Francisco, and Washington.

Mr. BURKETT. When they get this allowance they are not boarded?

Colonel DENNY. No, sir.

HEADQUARTERS U. S. MARINE CORPS,
QUARTERMASTER'S OFFICE,
Washington, D. C., April 9, 1904.

SIR: In compliance with your request I have the honor to report that there are employed on special duty, some permanently and some temporarily, in the offices of the brigadier-general, commandant, adjutant and inspector, quartermaster, and paymaster, headquarters Marine Corps, this city, and in the offices of the assistant quarter-

master, Philadelphia, Pa., assistant quartermaster, assistant adjutant and inspector, and assistant paymaster, San Francisco, Cal., 66 enlisted men of the following grades:

Quartermaster-sergeants	14
Sergeants	22
Corporals	6
Privates	24
Total	66

Of the foregoing, 48 are detailed as clerks and 18 as messengers. The following are the rates of pay per month of the enlisted men of the ranks mentioned:

Quartermaster-sergeant	\$34.00
Sergeant	18.00
Corporal	15.00
Private	13.00

The following allowances are paid to the enlisted men detailed at headquarters, Marine Corps:

Clerks:	
Per day commutation of rations	\$0.75
Hire of quarters (per month)	21.00
Per day extra-duty pay50
Messengers:	
Per day commutation of rations75
Per month hire of quarters	10.00
Per day extra-duty pay35

At Philadelphia and San Francisco the allowances are the same for clerks and messengers, except that clerks receive 35 cents per day instead of 50 cents for extra-duty pay.

Until the decision of the Comptroller of the Treasury, dated January 22, 1904, enlisted men detailed as above mentioned received commutation of fuel at the rate of \$8 and \$9 per month, respectively, for messengers and clerks. Commutation of fuel has been paid to these men since 1871 until January 1, 1904, when the decision of the Comptroller of the Treasury took effect, and the accounts of this office have been passed by the Auditor for the Navy Department. The commutation of fuel for the enlisted men herein mentioned is proposed in lieu of fuel which would be issued in kind if these men were serving at posts.

Very respectfully,

F. L. DENNY,
Colonel, Quartermaster, U. S. Marine Corps.

The CHAIRMAN APPROPRIATIONS COMMITTEE,
House of Representatives, Washington, D. C.

LEAGUE ISLAND, PA., NAVY-YARD.

The CHAIRMAN. The next item is "Navy-yard, League Island, Pa.: Fittings and modifications, dry dock and its pumping plant, \$40,000."

Secretary MOODY. It is explained to me that certain modifications of the fittings of the dry dock in the process of construction are very desirable, consisting of instrumentalities to be used to hold up the big ships when they are in the dry dock. I forget exactly what they call them. They have come into use since the original plans were drawn and are considered desirable, and, of course, I have to take it that way. I have no doubt it is true.

PENSACOLA, FLA., NAVY-YARD.

The CHAIRMAN. The next item is "Navy-yard, Pensacola: Telephone system extensions, \$1,000."

Secretary MOODY. That is one of the conveniences. We have done very little for Pensacola. It is in a remote place from the town. It is one of those things which could go out. It is one out of quite a number submitted to me.

Mr. BURKETT. It is not a deficiency proposition?

Secretary MOODY. Not properly.

WASHINGTON, D. C., NAVY-YARD.

The CHAIRMAN. The next item is, "Navy-yard, Washington, D. C.: Quay wall, \$50,000?"

Secretary MOODY. As you know, we bought a lot of land at the navy-yard in Washington. Navy-yard is a misnomer. It is really a gun factory; that is all. In order to utilize that land fully it is proposed to extend the quay wall, which is partially constructed. The reason for considering a deficiency which operated on my mind was that the Commissioners of the District of Columbia have some good earth which they are taking from some other place and they want to dump it there, and they want to begin the work this summer, and in order to dump it properly and not have to move it again it will be necessary to have the quay wall all ready, and it seems to me that in the general leveling of that ground we shall either have to do it over again or have the quay wall erected prior to doing it at all. It struck me as being a thing that would inevitably have to be done, and that it would be economical to get the appropriation at this time. I went down and looked at it, and am satisfied that the work ought to be done.

LEAGUE ISLAND, PA., DRY DOCK.

The CHAIRMAN. The next item is, "Four timber dry docks: Dry dock, League Island, Pa.?"

Secretary MOODY. That is only an apparent increase of an expenditure. The contractor for that dry dock failed to proceed with sufficient diligence, and we forfeited his contract and we held the bondsmen responsible. His bondsmen are responsible. We had to make a new contract to complete it in behalf of the defaulting contractor and his bondsmen. The new contract is a larger sum than the older sum. We have to have the money to do the work, but we expect to recover that money from the bondsmen by way of damages. The whole arrangement is assented to, and it in effect amounts to advancing the money on account of the bondsmen.

COLLISION CASES.

The CHAIRMAN. There are several items growing out of collisions. I wish you would explain to the committee just how you ascertain who is at fault, and after determining that question, then as to the amount of damages.

Secretary MOODY. We appoint a board of officers, who pass on the question of responsibility and damages.

The CHAIRMAN. Under what law, or under what rule; is it simply a rule of the Department?

Secretary MOODY. I know of no law. We come into collision with some ship. They present their claim to us at once if they think we are in fault, and we present our claim to them if we think they are in fault. There are quite a number of cases both ways. We go to work just as an individual would under the same circumstances—investigate the matter and find out who is at fault. We do it by a board of officers. I can not do it myself. They inquire and report. Of course, that is only advisory to Congress. I understand it creates no obligation whatever, and they would not be able to recover except by a special act allowing them to go to the Court of Claims, but the custom has been for a great many years that where the board has reported that the naval vessel was at fault and the damages to be a certain amount the practice has been to submit it to this committee, which has invariably accepted the judgment of the board.

The CHAIRMAN. In your judgment, does this practice result in saving a considerable amount of money to the Government?

Secretary MOODY. I think clearly it does.

The CHAIRMAN. In other words, a prompt settlement of the claims is secured, which results in expending a much less amount than if they were allowed to take their course through Congress?

Secretary MOODY. It is very much cheaper. If we did not pursue some practice like this, Congress would be forced to pass some general law permitting people injured in this way to go to the courts, and then we would have litigation which would be very expensive, and I have no doubt the cost of the litigation would be more than we pay in damages.

Mr. BURKETT. Does the War Department do the same thing?

Secretary MOODY. I have no doubt, but no knowledge.

The CHAIRMAN. You have some regulation in your Department, have you not?

Secretary MOODY. I think not.

The CHAIRMAN. I wish you would ask your legal adviser, Captain Lemly, about it. I have understood that there was some regulation in your Department.

Secretary MOODY. In reference to this class of cases?

The CHAIRMAN. Yes, sir; that some order was issued by some Secretary in the past.

Secretary MOODY. I only know the practice. I will write you a letter on the subject and explain fully what the situation is.

The CHAIRMAN. Very well. Where other vessels are at fault and vessels of the Navy are damaged, do you usually procure prompt payment of the claims?

Secretary MOODY. "Usually" is a strong word; sometimes we do. I have in mind a case on the Lakes where our vessel was tied up at the wharf and another vessel came on and ran into her. Of course there was no question whatever about the liability and, after ascertaining the damages, they paid us the money. If they do not pay the money—if the board reports that they are at fault and they do not pay the money—we at once send the case to the Attorney-General, and the district attorney for the district brings a suit. So we either settle or bring a suit.

The CHAIRMAN. You either settle or sue?

Secretary MOODY. Yes, sir.

NAVY DEPARTMENT,
Washington, April 11, 1904.

SIR: Referring to the inquiry made of me at the hearing before the committee on the 9th instant, with regard to the items contained in deficiency estimates for the reimbursement to owners of the cost of repairing vessels damaged in collision with ships of the Navy, I have the honor to advise you that there is no provision of law authorizing appropriations for this purpose, but the Department has for years followed the plan of submitting deficiency estimates to cover items of the character mentioned because of the repeated rulings of the Comptroller of the Treasury and the decisions of the courts that the Executive Departments have no appropriation from which can be paid claims for unliquidated damages.

It is the practice to submit only cases wherein a board of naval officers has determined that the responsibility rests with the naval vessel and, this being so, it is thought that this manner of disposing of the claim is not only most simple, but that it avoids the expense of litigation, which would be necessary if Congress were to enact a statute of the character suggested under which the claimants would have to sue in the courts.

Where it is found that the vessel in private ownership is to blame for the collision, the Department makes demand upon the owner for reimbursement of the actual cost of repairs, and in several cases during the past year payment has been made without the bringing of suit by the Government. If the owners of the damaging vessel do not make payment, and if the extent of the damage is such as to justify this action, all papers are sent to the Department of Justice with the recommendation that legal proceedings be instituted. Two suits brought upon the Department's recommendation are now pending in the courts.

For the further information of the committee in this connection I quote the Navy Regulation under which boards are convened in cases of serious collision between a ship of the Navy and a merchant vessel, which regulation has been in force in substantially the same terms at least since the regulations of 1865:

422. (1) In the event of a collision between a ship of the Navy and a merchant vessel so serious or under such circumstances as not to admit of immediate repair with the resources at hand, and therefore likely to involve damages, the captain shall order a board of three officers to ascertain all the attendant circumstances, injuries received by the merchant vessel, probable amount of damages, and which of the ships is responsible for the accident; and the master of the merchant vessel concerned shall be notified of the time and place of meeting of the board and informed that the officers and men of his vessel will be given a hearing by the board, if such hearing is desired. * * * When repairs have been effected on the spot, a certificate of the fact shall be taken from the master of the merchant vessel and forwarded, through the commander in chief, to the Secretary of the Navy.

(2) * * *

(3) * * *

(4) * * *

(5) The foregoing provisions of this article shall apply, as far as practicable, in all cases of collision by a ship of the Navy with a wharf, float, or other object.

(6) * * *

Very respectfully,

W. H. MOODY,
Secretary.

HON. JAMES A. HEMENWAY,

*Chairman Committee on Appropriations,
House of Representatives.*

PURCHASE OF LAND, ANNAPOLIS, MD.

The CHAIRMAN. Now, if you will kindly turn to page 40 of the bill in front of you, there is the item, "For the purpose of purchasing the remainder in fee in and to the land now held and occupied by lease by the United States Government across the Severn River from the Naval Academy at Annapolis, to be used for naval purposes, \$3,500." Are you familiar with that item?

Secretary MOODY. No, sir; I do not know what that means.

The CHAIRMAN. It seems that we have a ninety-nine year lease and they propose to sell us the lease. We have the following letter from the Assistant Secretary of the Navy:

NAVY DEPARTMENT,
Washington, March 29, 1904.

SIR: By the act making appropriations for the naval service, approved March 3, 1903 (32 Stat. L., 1177), appropriation was made for a building to be used as an experiment station and testing laboratory in the department of marine engineering and naval construction, to be erected on "land owned by the Government at Annapolis, Md." A board having been appointed by this Department to consider the location of this building found that the only available site therefor was "on the east side of the Severn River at the extreme western end of the Government reservation, and on the river front."

It is found, however, that while the United States holds leases executed, respectively, in 1872 and 1873 for the period of ninety-nine years covering the site, it does not own the fee simple to the entire tract. In order to acquire this it is necessary to extinguish certain reversionary interests in the property held by heirs of the original lessors. Options from these persons (three in number) agreeing to sell to the United States their interests at \$1,000 each have been obtained. In addition to this sum it is estimated that \$50 will be needed to defray the necessary expenses of the transfer, recording, etc.

I have the honor to request that an item providing the necessary amount, \$3,050, be inserted in the sundry civil bill now before the House.

Very respectfully,

CHAS. H. DARLING,
Acting Secretary.

HON. JAMES A. HEMENWAY,
*Chairman Committee on Appropriations,
House of Representatives.*

Secretary MOODY. This matter was not brought to me, but I have no doubt it is all right. We are proposing to build on this land, and we have two parcels of it, with leases of ninety-nine years beginning in 1872 and 1873, and the proposition is to extinguish the reversionary interests in the property, which can be done for the price already agreed upon, and this proposition is to do that.

Mr. UNDERWOOD. What are we paying for the lease now? What is it costing us?

Secretary MOODY. It does not appear here, and I do not know. I presume we have a lease which we paid for in advance and that we are not paying an annual rental.

Mr. UNDERWOOD. Then we have a lease paid for for seventy-five years?

Secretary MOODY. I suppose we have. It does not say here.

The CHAIRMAN. It strikes me, this being across the river, that if we can get the fee for \$3,500 we ought to do so.

Secretary MOODY. I think so, obviously. I think the statute read that the building should be located upon land "owned by the Government at Annapolis," and I presume that it would not be held that the land was owned where there were these reversionary interests?

Mr. BURKETT. What buildings are there on that ground?

Secretary MOODY. The marine engineering building.

Mr. BURKETT. Where the marine building is now?

Secretary MOODY. No, sir; a new building; the engineering building now in process of construction. This is a building that was authorized last year. Admiral Melville, the retiring chief engineer, was very anxious to have it for experimental work. He thought it was going to be of very great importance. It does not relate so much to the undergraduate work. This is on the east side of the Severn River, at the extreme west end of the Government reservation, and on the river front.

Mr. UNDERWOOD. How many acres are there?

Secretary MOODY. It does not say, and I do not know.

The CHAIRMAN. If you will kindly write us and give us your judgment as to whether or not this purchase should be made, we will be obliged.

Secretary MOODY. I will do so. You also want the information about the claims?

The CHAIRMAN. Yes, sir.

NAVY DEPARTMENT,
Washington, April 9, 1904.

SIR: Referring to your inquiry, made when I had the honor to appear before the committee this morning, in respect to the item \$3,050 for the extinguishment of certain reversionary interests in lands at Annapolis, your attention is invited to the Department's communication of March 29 last, signed by the Acting Secretary of the Navy, in relation to the matter (copy herewith).

These tracts, one of which is understood to contain 53½ acres and the other approximately 12½ acres, i. e., a total of about 65 acres, were leased June 20, 1872, and March 15, 1873, respectively, for the term of ninety-nine years in each case, and a lump sum—\$7,000 in all—was paid as rental. You will perceive that the leases have over sixty-seven years to run.

The records of the Department indicate that this land was leased instead of being purchased outright, because the prices then demanded were deemed to be in excess of the value of the land. The reversion is now being offered for \$3,000, a price thought reasonable. It is necessary to extinguish this reversion in order to utilize the land for building purposes in view of the provisions of section 355 of the Revised Statutes.

Very respectfully,

W. H. MOODY,
Secretary.

HON. JAMES A. HEMENWAY,
Chairman Committee on Appropriations,
House of Representatives.

MILEAGE BOOKS AND COMMUTATION TICKETS.

Secretary MOODY. Is this next item clear?

The CHAIRMAN. Will you just make a statement?

Secretary MOODY. For some years it has been the practice of the Department to buy mileage books and commutation tickets and give them to the officers and men who are compelled to travel, but now the Comptroller holds that to be advancing public money. Of course, it is obviously in the interest of economy that we should do this, and it is proposed that we should have the authority to continue that practice.

The CHAIRMAN. It results in a saving?

Secretary MOODY. Yes, sir.

The CHAIRMAN. This is a practice that has been carried on, but recently the Comptroller has decided that it was not proper?

Secretary MOODY. Yes, sir. There has been no abuse or suggestion of abuse.

NAVY DEPARTMENT,
Washington, March 28, 1904.

SIR: It has been the practice of this Department for some years past to purchase from the appropriation for "Pay, miscellaneous" in naval appropriation acts mileage books, commutation tickets, and other similar transportation tickets for the use of officers and others constantly traveling on inspection duty under orders. This practice was adopted both in the interest of economy and for the convenience of the inspectors concerned and the Department. By recent decisions of the Comptroller of the Treasury, however, such purchases have been held to be unauthorized upon the ground, partly, that they are in violation of section 3648 of the Revised Statutes, which prohibits the advance of public money.

In view of the many advantages, particularly of the saving to the Government, involved in the use of such mileage books, etc., I have the honor to recommend that there be inserted in the general deficiency bill, or, if there be time, in the sundry civil bill, a provision authorizing the Secretary of the Navy to continue the purchase thereof for the use of persons ordered to perform travel on official business and directing the accounting officers of the Treasury to allow all vouchers covering payments for transportation books and tickets of the character mentioned heretofore purchased for such purpose.

For the convenience of the committee there is transmitted herewith a draft of a clause which it is thought will accomplish the object in view.

Very respectfully,

W. H. MOODY,
Secretary.

Hon. JAMES A. HEMENWAY,
*Chairman Committee on Appropriations,
House of Representatives.*

GENERAL ACCOUNT OF ADVANCES.

The CHAIRMAN. The next item is:

To reimburse "General account of advances," created by the act of June 19, 1878, for amounts advanced therefrom and expended on account of the several appropriations named in excess of the sums appropriated therefor for the fiscal year given,

found to be due the "general account" on adjustment by the accounting officers, there is appropriated as follows:

Kindly have a letter written to us covering this matter in condensed form.

Secretary MOODY. Very well.

POST-OFFICE DEPARTMENT.

STATEMENT OF MR. B. W. TAYLOR, CHIEF CLERK.

HORSES.

The CHAIRMAN. On page 66 of the bill there is the item "For purchase of a team of horses, \$500. Please explain the necessity of that item and why it comes in the way of a deficiency.

Mr. TAYLOR. Our appropriation for horses is such that it is not sufficient to enable us to buy a team; it is not large enough, and so when an old team is worn out we do not have money enough for the purpose of buying a new team. It is barely sufficient to keep up the teams we have on hand. The Postmaster General concluded that both pair of horses have practically been worn out for the past year.

The CHAIRMAN. What is the particular purpose for which this team is desired?

Mr. TAYLOR. Expressly for the Postmaster-General.

Mr. UNDERWOOD. For his carriage?

Mr. TAYLOR. Yes, sir.

Mr. UNDERWOOD. Was this item estimated for in the post-office appropriation bill before the Post-Office Committee?

Mr. TAYLOR. No, sir.

The CHAIRMAN. Has the request been made upon any of the other bills for the item?

Mr. TAYLOR. No, sir.

The CHAIRMAN. This is the first time it has been submitted?

Mr. TAYLOR. Yes, sir.

The CHAIRMAN. There are two teams of horses now at the disposal of the Postmaster-General?

Mr. TAYLOR. Yes, sir; we have had two teams for a number of years. The last time we purchased a team must have been four years ago, if not longer than that, early in Mr. Smith's administration, and the other team was purchased right at the beginning of Mr. Gary's administration as Postmaster-General.

REVOLVING DOORS.

The CHAIRMAN. The next item is "For purchase and erection of revolving doors for the two center entrances of the Washington City post-office building, \$1,300?"

Mr. TAYLOR. I do not know that I can add anything to General Merritt's letter, which appears in the estimate. Mr. Merritt is here, upon whose recommendation the item was inserted in the estimate, and he can make a statement, being more acquainted with it than I am.

The CHAIRMAN. You have revolving doors there now?

Mr. MERRITT. Yes, sir; there are two revolving doors at the front

of the building. In the center of the building there are two stationary doors, that swing backward and forward on hinges. The revolving doors are not sufficient to accommodate the people in and out at the crowded hours of the day, in the morning, noon, and evening; and it has been found impracticable to open and shut the center doors in the windy and cold weather, and when the clerks are working the draft is such that it endangers their health and we have to keep them closed—not only the health of the employees of the office, but such a draft is created that it is impossible to handle the mail matter. If we could have the revolving doors in the center of the building they will accommodate the public generally as well as the employees of the office. There are also revolving doors on the sides of the building, but the people never go in or out of them, and they do not amount to anything.

The CHAIRMAN. You want all the doors in the front of the building to be revolving doors?

Mr. MERRITT. Yes, sir.

The CHAIRMAN. And you now have only the two on the extreme sides?

Mr. MERRITT. On the extreme right and left, and in the center the two doors have to be closed.

Mr. UNDERWOOD. Was this matter called to the attention of the Post-Office Committee?

Mr. MERRITT. I do not remember. I wrote a letter to the Postmaster-General.

Mr. TAYLOR. This is the first time it has been brought to the attention of Congress.

HARDWARE.

The CHAIRMAN. The next item is "For hardware, \$500?"

Mr. TAYLOR. On that item I find that we can make a reduction. There were some items charged that were supposed to be paid out of that appropriation, but it was later found that they could not be properly paid out of the appropriation, but went to the miscellaneous fund, and that consequently relieved this particular appropriation, and so I think \$250 will be ample.

The CHAIRMAN. What have you on hand for hardware now?

Mr. TAYLOR. We have \$141.90.

The CHAIRMAN. What is your appropriation?

Mr. TAYLOR. Five hundred dollars. There are several items we have not purchased because the appropriation was low and we thought that we would have to carry them over to the next year.

FOREIGN POSTAGE.

The CHAIRMAN. The next item is "Postage, Post-Office Department: Postage stamps for correspondence addressed abroad, which is not exempt from postage under article 8 of the Paris convention of the Universal Postal Union, \$150."

Mr. TAYLOR. That item was inserted upon the request of the First Assistant Postmaster-General. The statement is made that there has been a large increase in the work of the dead-letter office business, which necessitates an increased expenditure in this account. On February 4 there was only \$30 unexpended of the \$550, which, I believe, is the annual appropriation for that item. That has been expended since

that time I know of my own knowledge. Correspondence is sent abroad from the dead-letter office without postage, and it is evened up with the double rate on the other side.

POSTAL SERVICE.

STAR SERVICE.

STATEMENT OF HON. W. S. SHALLENBERGER, SECOND ASSISTANT POSTMASTER-GENERAL.

The CHAIRMAN. On page 66 of the bill there is the item "Mail transportation. By star routes, on account of the fiscal years as follows: For the fiscal year, 1904, \$125,000?"

Mr. SHALLENBERGER. That is apparently due to the increased rate in the third contract section that went into operation July 1, 1903, being the Middle West, with the State of Indiana as the center. When we relet those 3,340 routes we found that the increased cost was in excess of our estimate of nine months previously.

The CHAIRMAN. Explain briefly the new rate that has resulted in this increased cost?

Mr. SHALLENBERGER. I have done that in my annual report about as succinctly as I thought it could be done.

These new contracts covered 3,340 routes, aggregating 32,724.89 miles in length and 19,343,981.28 miles of annual travel, at an annual rate of expenditure of \$1,276,277.07, an increase over the annual rate on June 30, 1903, of \$556,988.14. The average rate per mile traveled on June 30, 1903, under the old contracts was 3.77 cents. On July 1, 1903, the average rate under the new contracts was 6.59 cents per mile traveled, an increase of 2.82 cents per mile, or 74.80 per cent.

The new contracts contemplate additional and better service. They require not only the transportation of mail in pouches between post-offices as formerly, but also the delivery of mail into boxes or of private mail bags to mail cranes along the routes for all persons residing upon or near the routes who choose to erect boxes or cranes and request that their mail be so delivered, and also the carrying of the private mail bag from the crane to the post-office. The old contracts did not obligate the carrier to thus deliver and collect mail. It was optional with him. He could perform the service for one and not for another. If he did perform it, he could make such charge for this service as he saw fit, which charge whether reasonable or not had to be paid by the person so receiving his mail. But now under the new contracts the privilege of having the additional postal facility is extended to all, and the cost is included in the contract price.

The higher rate paid under these new contracts may be further accounted for by the fact that the old contracts which expired with the 30th of June last were awarded about four and a half years prior to that date, since which time conditions have radically changed. Prices have advanced for labor, stock, feed, and other equipment, and higher rates prevail in all lines of industry, so that the sum for which a route could be let then could not secure the same service to-day, to say nothing of the improved service.

Again, within the past four and a half years the rural free-delivery

service has been largely extended, for which Congress has fixed a salary of \$600 per annum to the carrier, and bidders for star service in support of the reasonableness of their bids frequently make comparison with the higher rates paid the rural carriers in the same vicinity. This tends to increase the rate paid for star service.

However, notwithstanding the changed conditions at the average rate paid under the new contracts in the section referred to, 6.59 cents per mile traveled, a contractor traveling 22 miles each week day would receive about \$1.45 per day, or \$453.79 per annum, as against the present pay of \$600 for the amount of service to be increased to \$720.

The CHAIRMAN. This amount, \$125,000, you have ascertained by what process?

Mr. SHALLENBERGER. By aggregating the increased bids on 3,340 routes over the estimated increased per cent of the aggregate appropriation prevailing in that section of the country for last year, which is about \$1,250,000—about \$125,000 above what we estimated would be the increase in that section.

STEAMBOAT SERVICE.

The CHAIRMAN. The next item is "By steamboat routes, \$15,000."

Mr. SHALLENBERGER. That deficiency is of the same nature. Of course, prices are increased accordingly, but specially in the far West. Some of our Alaskan steamship routes have been increased and the cost for new service has been larger than we had reason to estimate at the time.

RAILROAD SERVICE.

The CHAIRMAN. The next item is "By railroad routes, \$400,000."

Mr. SHALLENBERGER. That was foreshadowed in the annual report of this office for the year just ended.

Last year the mails were weighed on the railroad routes in the third contract section, embracing the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, and Missouri, for the purpose of making the regular quadrennial readjustment of pay from July 1, 1903. The annual rate of expenditure for railroad transportation in these States on June 30, 1903, based on the weighing had four years before, was \$13,289,815.56. The result of the readjustment of the pay for railroad transportation, effective July 1, 1903, in the same States for the ensuing four years, based on the reweighing (under orders issued to September 30, 1903), was an increase of \$2,439,112.83, or 18.05 per cent.

We estimated for 15 per cent increase based on our best knowledge as to the increase that had been prevailing for the four years previous. We found, however, that we had underestimated the increase by 3.05 per cent. That applied to the appropriation available for that section as requires under the order and the law an excess of \$400,000 during the remainder of this fiscal year. It is liability incurred under the law and not under Executive order.

The CHAIRMAN. In other words, you pay so much per ton per mile?

Mr. SHALLENBERGER. Yes, sir.

The CHAIRMAN. Your office has nothing whatever to do with regulating the total cost; that is done by the weighing of the mails?

Mr. SHALLENBERGER. Yes, sir; by the ascertained weights and the last governing the application of the pay to the volume of business.

The CHAIRMAN. In your estimate for the fiscal year 1904, \$38,242,000, you estimated an increase of 15 per cent?

Mr. SHALLENBERGER. Yes, sir; 15 per cent upon the basis of the last four years, whereas it resulted in an increase of 18.05 per cent.

The CHAIRMAN. And that increase makes a difference of \$400,000?

Mr. SHALLENBERGER. Yes, sir.

WAGON SERVICE.

The CHAIRMAN. The next item is "For regulation, screen, and other wagon service, \$100,000."

Mr. SHALLENBERGER. That is due to the failure of a contractor for wagon service in the city of New York and the consequent reletting of the service in that city. The Department holds the bond of the contractor and a surety company to indemnify it for the damage suffered by reason of the failure, but all sums recovered on such bonds are covered into the Treasury and are not available for payments for mail transportation, nor can we collect it until after the expiration of the four-year period. It will be impossible for us to determine the exact loss to the Government until we do, for the reason that we may possibly discontinue a portion of the service for one reason or another at the expiration of the four-year contract; but the contractor's bondsmen are held for whatever shall be finally determined to have been the amount of indebtedness incurred by the Government by reason of his failure last year.

The CHAIRMAN. You can not ascertain, and no suit can be brought until you do ascertain, the exact amount of the loss?

Mr. SHALLENBERGER. No, sir; not until we have ascertained the exact loss.

The CHAIRMAN. This results in the advancement of \$100,000 pending that settlement?

Mr. SHALLENBERGER. Which must be paid this year to the present contractor.

The CHAIRMAN. The next item is:

MAIL BAGS, ETC.

"Mail bags: For mail bags, cord fasteners, label cases, and for labor and material necessary for repairing equipment, \$36,000."

Mr. SHALLENBERGER. That is due to a similar cause or principally so, "by the failure of the contractor for furnishing catcher pouches and sacks, which compelled the entering into new contracts for these articles at greatly increased prices, the increase for the current year amounting to \$31,279. The remainder is due to the purchase of a large number of No. 2 sacks required to meet the extraordinary demand for them which has recently arisen." That letter was written soon after our Christmas business, and we find that we need a greater increase than we estimated. Twenty-seven thousand eight hundred and eighty-nine dollars is required to pay the increased cost of the bags by reason of the great advance in cotton material, and when we came to the new contract we found that it increased our cost to the extent of 33 per cent.

The CHAIRMAN. The contractor was under bond?

Mr. SHALLENBERGER. Yes, sir. The same may be said of his contract as was said of the wagon contract. At the expiration of the period the bondsmen will be required to pay under the law the exact amount of loss sustained by the Government.

The CHAIRMAN. And the increased price is due to the increase in the price of cotton goods generally?

Mr. SHALLENBERGER. Yes, sir.

MAIL BAG REPAIR SHOP.

The CHAIRMAN. The next item is "For rent of building for a mail bag repair shop and lock repair shop, and for fuel, gas, watchmen and charwomen, oil and repair of machinery for said shops, \$600?"

Mr. SHALLENBERGER. That is solely required on account of the advance in the price of coal, with which the chief clerk of the Department is familiar.

The CHAIRMAN. That deficiency resulted from the increased price of coal?

Mr. SHALLENBERGER. Yes, sir; the increased price we have been required to pay for coal.

RAILWAY MAIL SERVICE.

The CHAIRMAN. In the railway mail service for "acting clerks in place of clerks injured while on duty," you ask \$30,000?

Mr. SHALLENBERGER. That is the only one of the items which I am permitted to reduce. At the time that was estimated for we had had a very unusual experience in the six months, the casualties were abnormal. In the three months since that date they have dropped to normal again, and so in going over the present balance available with the general superintendent this morning he decided that we could reduce the amount to \$25,000, and I revised that a little further and said I will reduce it to \$20,000.

The CHAIRMAN. You think \$20,000 will be needed?

Mr. SHALLENBERGER. Yes, sir; I think it will see us through this year.

If you will permit me, at the suggestion of the Postmaster-General, I would like to say a word in reference to the storm doors in front of our building. They should, in my judgment, be constructed as early as possible. I myself have seen the clerks driven through those doors at a rate that imperiled life and limb, especially of the women clerks. One of the aged clerks was tripped simply by the rush that was behind him and fell upon the stone pavement and received an injury which I think, in part, may be the cause of his death, but at any rate the public and the clerks should be protected.

Again, anyone who has been in the neighborhood of the building during a heavy wind knows that it is somewhat similar to the Flatiron Building in New York. The storm rages there to an extent that I have not seen anywhere else in the city. In a storm of such violence it is impossible to open the doors, and therefore these doors should be provided at the earliest possible opportunity.

STATEMENT OF MR. E. C. MADDEN, THIRD ASSISTANT POST-MASTER-GENERAL.

STAMPED ENVELOPES.

The CHAIRMAN. On page 68 of the bill there is the item, "Stamped envelopes: For manufacture of stamped envelopes and newspaper wrappers, \$17,000."

Mr. MADDEN. Upon obtaining later figures we are able to reduce that item to \$14,000.

The CHAIRMAN. What is the occasion for the deficiency?

Mr. MADDEN. Public demand for the stamped envelopes in excess of our expectations.

The CHAIRMAN. The demand has been greater than you have anticipated?

Mr. MADDEN. Yes, sir; and at the time the estimate was prepared, in December, we figured it would require \$17,000 to fill out the year. We are now able to secure figures for a greater period of time and can reduce it to \$14,000.

The CHAIRMAN. What would the increase have been over the estimate that you made when you made the original estimate?

Mr. MADDEN. The increase would have been \$17,000.

The CHAIRMAN. You have furnished that many more stamped envelopes and paper wrappers than you estimated that you would furnish when you made your estimate for 1904?

Mr. MADDEN. Yes, sir.

Mr. UNDERWOOD. The increase in this item does not cost the Government anything; it is paid back by the people who buy the envelopes.

Mr. MADDEN. Exactly.

The CHAIRMAN. The next item is "For registered-package, tag, official, and dead-letter envelopes, \$10,000?"

Mr. MADDEN. The same thing may be said there. That item can be reduced from \$10,000 to \$7,500 by having later figures with which to prepare the estimate.

I have one more matter which I am compelled to bring to the attention of the committee, which we were not able to make any estimate for, and that is for the manufacture of postage stamps. We will have a deficiency of \$15,000, as near as we can estimate, on the nine months past, and it is largely due to the series of stamps gotten out to commemorate the St. Louis exposition. The postmasters of the country are apparently holding out until the new issue, and our estimates show that to supply the country with the new issue we will be short \$15,000, and we would like to have you insert that item.

The CHAIRMAN. There was a law directing these particular stamps to be issued, but no special appropriation was made to take care of them?

POSTAGE STAMPS.

Mr. MADDEN. No, sir. The item should be inserted in these words: "For the manufacture of adhesive postage stamps, special-delivery stamps, and books of stamps, \$15,000."

Mr. VAN VOORHIS. Have you the law under which this is authorized?

Mr. MADDEN. No, sir.

RURAL FREE DELIVERY.

STATEMENT OF HON. J. L. BRISTOW, FOURTH ASSISTANT POSTMASTER-GENERAL.

The CHAIRMAN. On page 68 of the bill there is the item, "For map work in the rural free-delivery service, \$1,500?"

Mr. BRISTOW. The Auditor decided last fall that we could not use the miscellaneous appropriation to pay for this map work, and that necessitated us to prepare a deficiency. The \$3,500 that we asked for was not sufficient, so we ask for \$1,500 additional.

The CHAIRMAN. What kind of map work is this—the maps of the routes?

Mr. BRISTOW. Yes, sir.

The CHAIRMAN. And this \$1,500 is necessary to continue the work?

Mr. BRISTOW. Yes, sir.

Mr. BURKETT. Do you have to have maps in order to conduct the rural free business?

Mr. BRISTOW. Yes, sir; I think so. Having maps of the routes on file in the Department when other routes come in it gives the Department an opportunity to keep check on them to see whether they are interfering. I think it is essential.

The CHAIRMAN. The next item is "For labor employed and materia used in the preparation of rural route maps during the fiscal year ending June 30, 1903, \$500."

Mr. BRISTOW. That is to pay some bills that came in after this deficiency was made up that we did not know of at the time. You will remember there was a deficiency in the map making by reason of the fact that we could not obtain the amount out of the appropriation, and this \$500 has developed since then. It seems to be a legitimate indebtedness.

AUDITED ITEMS.

The CHAIRMAN. On page 36 of House Document No. 652 there is a long list of items under the rural free delivery. Those items have been audited and allowed?

Mr. BRISTOW. Yes, sir.

The CHAIRMAN. And those amounts are due to the parties?

Mr. BRISTOW. Yes, sir.

DEPARTMENT OF JUSTICE.

PRINTING AND BINDING.

STATEMENT OF MR. O. G. FIELD, CHIEF CLERK DEPARTMENT OF JUSTICE, ACCOMPANIED BY COL. CECIL CLAY, GENERAL AGENT OF THE DEPARTMENT, AND MR. E. M. KENNARD, BOOKKEEPER.

The CHAIRMAN. On page 90 of the bill there is an item of \$5,000 for printing and binding for the Department of Justice.

Mr. FIELD. There is a balance remaining of only about \$2,000 or \$3,000 under this appropriation, and there are three months yet to run.

The average expenses of printing and binding run about \$1,700 a month.

The CHAIRMAN. What does that printing and binding consist of? Is there any way you can regulate it and keep it down, so as to keep it within the appropriation?

Mr. FIELD. The printing consists not only of printing all blanks and stationery for the Department, but printing briefs of the Supreme Court, and of the Court of Claims, and the Indian Depredation Bureau, and frequently rebinding worn-out books in the library. Of course, litigation has been quite heavy in the last year or two in the Supreme Court, and there was a large number of briefs to prepare.

The CHAIRMAN. Have you added any new line of printing?

Mr. FIELD. No, sir.

The CHAIRMAN. You average about \$1,700 a month?

Mr. FIELD. Yes, sir. There will perhaps be during the remainder of this year a little unusual item, amounting to \$1,800 or \$2,000 for catalogue of the Department library.

Mr. BURKETT. That would give you a good deal more. One thousand seven hundred dollars a month would only make you \$24,000?

Mr. FIELD. Yes; and this \$5,000 would make \$25,000. I was figuring on this catalogue, which will run about \$2,000, I should think.

Mr. BURKETT. A working library catalogue?

Mr. FIELD. Yes, sir; the Department has about 25,000 volumes without a catalogue of them. It is a subject catalogue, and a catalogue of authors and subjects and States and reports.

Mr. BURKETT. Why do you have such a library as that over there?

Mr. FIELD. The Department of Justice, being the legal Department, has to be fitted up with a library of that kind.

Mr. BURKETT. Yes; but you have digests and all that sort of thing for your law books. This catalogue of subjects and authors and all that sort of thing is on something else, is it?

Mr. FIELD. We have State reports and Supreme Court reports.

Mr. BURKETT. You have all that in your digests in reference to State reports?

Colonel CLAY. How can you know where it is in the library unless the library is catalogued? We can not know anything about it without a catalogue.

STATIONERY.

The CHAIRMAN. On page 74 is your item for stationery, for the fiscal year 1904, \$300. You had \$3,000 last year, 1903, and we gave you \$3,000 in 1904. What is the condition of your funds now?

Mr. FIELD. The fund is entirely exhausted. We have estimated that we can get through the year with \$300 additional. That item for stationery includes not only all stationery items, such as paper and books and typewriter ribbons and pencils, but also for file cases and file boxes; and there has been a large expense on that account.

Mr. UNDERWOOD. Did we not allow you a deficiency of that kind on the urgent deficiency bill?

The CHAIRMAN. Yes; \$500.

Mr. BURKETT. I do not see how you can buy file cases out of the stationery fund when you come in and ask for a separate fund?

Mr. FIELD. We do not have a separate fund at all. That provides for file boxes and file cases and file holders as such, and for years they have been paid out of the stationery account.

MISCELLANEOUS EXPENDITURES.

The CHAIRMAN. For the fiscal year 1904, \$5,000 for miscellaneous expenditures, including telegraphing, fuel, lights, foreign postage, etc.

Mr. FIELD. The expense under that appropriation runs from \$1,200 to \$1,300 per month, and it is now entirely exhausted, and we have yet to pay the bills for the months of March, April, May, and June—four months—at from \$1,200 to \$1,300 a month. There has also been during this past year an additional building to heat and light and equip with telephone service, which was not contemplated when this appropriation was made a year ago.

Mr. UNDERWOOD. What is the meaning of this, Mr. Chairman—“fiscal year 1905?” Is not that provided for in the regular bill?

The CHAIRMAN. That is not a deficiency, and of course it will not be dealt with on this bill. “For the fiscal year 1904, \$5,000.” What are the items that make that up; the increase is in what items of expenditure?

Mr. FIELD. It covers fuel, lights, telegraphing, and telephone service. The expenses during the eight months ending the 1st of February have averaged \$1,200 to \$1,300 a month.

The CHAIRMAN. I understand that. But what we undertake to do when we make appropriations is to have you divide them into twelve equal parts and make them supply the demands.

Mr. FIELD. This appropriation covers a great many different items. There are telegrams and telephone service, and fuel and lights, and electric wiring, and repairs to buildings, and that includes supplies for the engineer and the engine room, and it is impossible to estimate exactly what that would be. As I stated before, there is one additional building which has to be heated and lighted and equipped with telephone service.

The CHAIRMAN. About what additional cost did that add to the expense of the establishment?

Mr. FIELD. I should say about \$2,500.

The CHAIRMAN. What have you on hand of this fund now?

Mr. FIELD. It was entirely exhausted on the 1st of March, so that there are four months yet to provide for. There is no money on hand even to pay the March bills.

Mr. UNDERWOOD. The estimate last year was \$10,500. The appropriation was \$10,000, and this would make a total appropriation for 1904 of \$15,000.

Mr. FIELD. The expenses during the last year were \$12,500. There was a deficiency appropriation afterwards of \$2,500, I think, in addition to the \$10,500 estimated for.

Mr. UNDERWOOD. You estimated in 1903 for \$10,500 and got \$7,500, and then a deficiency of \$5,000; but this year you estimated for \$10,500 only.

Mr. FIELD. Yes; as I stated before, at the time the estimates were submitted for this year the Department did not contemplate this extra building, which was rented after that appropriation of \$10,500 was made; and of course we have to heat and light that building and equip it with telephone and telegraph service.

The CHAIRMAN. You are occupying rented buildings altogether, are you?

Mr. FIELD. Yes, sir.

The CHAIRMAN. Does your contract specify that the buildings shall be kept in repair?

Mr. FIELD. Outside of repairing roofs and walls the Department has to repair them. There are constant repairs to windows and doors, and things of that kind.

The CHAIRMAN. Exterior repairs are made by the owners and you take care of the rooms and walls inside?

Mr. FIELD. Yes, sir.

LAW LIBRARY.

The CHAIRMAN. The next item is "For books for law library of the Department, \$1,500." You had \$2,500 for the current year?

Mr. FIELD. Five hundred dollars of that is the usual deficiency that has been allowed every year for several years, and the other \$1,000 is to provide, as stated in the note, for United States reports and the Federal Reporter. Two assistant officials are provided for. It is necessary that they should have these reports in their offices several blocks away.

The CHAIRMAN. How many sets of these books have you in the Department now?

Mr. FIELD. Each Attorney-General has a set. I suppose five or six sets, probably. Each Attorney-General has a set in his own office.

The CHAIRMAN. Are they all located there in the same building?

Mr. FIELD. No; they are scattered around through four or five buildings, as it is now.

The CHAIRMAN. Could you so divide up as to have one of these sets of reports in each building?

Mr. FIELD. We have one set in each building; but it is necessary for each Assistant Attorney-General to have a set in his own office, as their work requires constant reference to them. They are the tools with which they work, and it is impossible to work unless they have a set of reports of their own. Four or five of them would want to use the same books at the same time, otherwise, and in the preparation of big cases they would sometimes have a large number of books out.

SPANISH TREATY CLAIMS COMMISSION.

The CHAIRMAN. The next item is "Miscellaneous, Department of Justice." "For salaries and expenses, Spanish Claims Commission, namely: For expenses of taking testimony abroad, to be available until used, \$20,000."

Mr. UNDERWOOD. Is that a deficiency, Mr. Chairman? And ought we carry these matters regularly on this bill?

The CHAIRMAN. Here is a letter from Mr. Chandler on this matter:

SPANISH TREATY CLAIMS COMMISSION,
Washington, D. C., April 9, 1904.

MY DEAR SIR: In explanation of the deficiency estimate of \$20,000 for the Spanish Treaty Claims Commission to be expended in taking testimony abroad, I have to say that the expenditure may be required before the 1st of January next, in order to expedite the taking of testimony in Cuba, which it will be desirable to have taken without any further delays or hindrances.

The original plan of Congress contemplated the payment of the

commissioners to take testimony in Cuba by fees like those allowed to United States commissioners taking testimony at home. But it was soon seen that the fee system would not work in Cuba—unless, indeed, methods of counting folios were to be recognized, which would not be in accordance with the existing statutes.

Taking testimony in Cuba of witnesses who do not speak English, aided by lawyers who speak only English, and translating the questions and answers, is very different from taking, at home, ordinary depositions, where all parties speak English. The Commission, after fully satisfying itself that the fee system was unworkable, gave information to that effect to Congress, with the following result: Two commissioners in Cuba were authorized by law, at salaries of not exceeding \$2,500 per year, with an allowance for subsistence (sundry civil bill, June 28, 1902—Public, No. 182), and the right was given to the Commission to employ further commissioners for special service, to receive not exceeding \$8 per day while actually employed. (General deficiency bill of March 3, 1903—Public, No. 156.) Thus empowered, the Commission determined to make it easy for every claimant to take testimony in Cuba by providing, without expense, (1) The commissioner, (2) the interpreter, (3) the stenographer and typewriter, so that every deposition could be speedily taken in English and the three copies required by the rule made at the time and place, nothing being sent to the Commission in the Spanish language unless for special reasons stated. The right to employ interpreters, stenographers, and typewriters without limit as to number was given to the Commission by the original act.

It will be seen that this system is highly beneficial to claimants, as it costs them nothing to take their testimony except the fees of their witnesses and the compensation of their counsel. It has been feared that this liberality might be unfairly used by claimants, but such has not yet been the result.

In some cases the claimants are poor and unable to pay the expenses of proving such facts as they desire to submit to the Commission. On full consideration the Commission had no hesitation in asking and securing from Congress the power to adopt the method described of taking testimony, and believes it should be continued. If, however, Congress deems the plan to be one of too great liberality and on the whole to be unwise, the Commission is willing to be so instructed.

There is a continuing appropriation of \$50,000 per year, or \$25,000 for each half-year, for the expenses of the Commission, which is not sufficient to allow much for expenditures in taking testimony in Cuba. An extra appropriation of \$5,000 was made in the deficiency bill of February 18, 1904, and \$20,000 is now asked to cover any increased expenditures which may be advisable after Congress adjourns and before another Congress can assemble and act. The most active periods for taking testimony in Cuba will be the next two months, up to the middle or last of June, when the summer heat becomes intense, and the months of October and November, prior to the meeting of Congress.

The taking of testimony during the last two years has not proceeded with rapidity because in not many cases have issues of fact been joined. Principles have been argued and settled upon demurrers in many cases, and ample leave has been given for the amendment of petitions where the demurrers have been sustained. As it becomes apparent what

cases are to be tried upon issues of fact the work of taking testimony will be hastened; and it is the desire of the Commission to be ready for any emergency so that no avoidable delay in the taking will arise. Various difficulties which have occurred are being investigated and solved as judiciously as possible and the methods of the Commission are approved by counsel on both sides of the cases.

It is proper also to call to mind the fact that substantially all the testimony which is to come before the Commission is to be taken abroad, either in Cuba or Spain, and to say that after much delay arrangements have been made for the taking of any necessary testimony in Spain under suitable conditions. To what extent the Commission may find it necessary to pay any expenses of taking testimony in Spain can not now be predicted. Under the circumstances the deficiency appropriation is asked for. If any part of it is not needed there is no danger that it will be expended.

Very respectfully,

WM. E. CHANDLER,
President of the Commission.

Hon. JAMES A. HEMENWAY, M. C.,
Chairman Committee on Appropriations.

The CHAIRMAN. Do you know anything in addition to that letter?

Mr. FIELD. No, sir; that item was submitted independently by the Spanish Treaty Claims Commission, and we have no knowledge of it.

DEFENDING SUITS IN CLAIMS.

The CHAIRMAN. "For defraying the necessary expenses, including salaries of necessary employees in Washington, D. C., incurred in the examination of witnesses and procuring of evidence in the matter of claims against the United States, and in defending suits in the Court of Claims, including defense for the United States in the matter of French spoliation claims, to be expended under the direction of the Attorney-General, for the fiscal year 1903, \$767.23?"

Mr. FIELD. That is for the year 1903. For last year some bills recently came in after the funds had been turned back into the Treasury.

PAYMENT TO HUGH T. TAGGART.

The CHAIRMAN. The next is, "For payment to Hugh T. Taggart, for legal services rendered in the Supreme Court of the United States, as special assistant to the Attorney-General in the case of Morris and others against the United States, \$5,000."

Mr. FIELD. Mr. Taggart was the special counsel that conducted the case of the United States in what is known as the Potomac Flats case, involving the title to land along the river front, and he prepared a brief and argued the case in the Supreme Court, for which he has received no compensation. This item is submitted with the earnest recommendation of the Attorney-General that he be allowed this \$5,000 for his services in connection with the case in the higher court.

Mr. BURKETT. Why was there a special counsel in this case?

Mr. FIELD. The case involved the looking up of the titles to all this land along the river front, and it was a case involving millions of dollars and extended over a period of several years.

Mr. BURKETT. Did you pay him anything besides this?

Mr. FIELD. I suppose he received some compensation in the lower courts.

The CHAIRMAN. Will you advise us how much Mr. Taggart has formerly received in fees in this case?

Mr. FIELD. As fees in this case he received altogether, through special appropriation by Congress, \$25,000 for services in the lower courts. Afterwards the case was appealed, and he prepared and argued the case in the Supreme Court, for which he has received no compensation as yet.

The CHAIRMAN. During this time was he performing other service as attorney for the Government?

Mr. FIELD. He is the assistant attorney in the office of the attorney for the District of Columbia.

The CHAIRMAN. He receives an annual salary of \$3,000 a year.

Mr. BURKETT. During the time he was engaged in this case?

Mr. FIELD. Yes; he was appointed on account of his special qualifications for this work.

The CHAIRMAN. The fee of \$25,000 was paid him before he became assistant in the District attorney's office?

Mr. FIELD. I do not know about that.

Mr. BURKETT. How many years did he work on this case?

Mr. FIELD. I do not know.

The CHAIRMAN. Will you advise us by letter as to whether or not at the time he earned \$25,000 fee he was in the Government service?

Mr. FIELD. Yes, sir.

DEPARTMENT OF JUSTICE,
Washington, D. C., April 9, 1904.

Hon. JAMES A. HEMENWAY,
*Chairman Committee on Appropriations,
House of Representatives.*

SIR: Referring to the item in the deficiency bill of \$5,000 for services of Hugh T. Taggart in the Potomac Flats case in the United States Supreme Court, and replying to your inquiry as to whether he was an assistant attorney for the District of Columbia at the time he was paid \$25,000 for his services in this case in the lower court, I beg to say that Mr. Taggart's services in this case in the lower court extended from 1888 to 1896, and that the \$25,000 was paid to him by special act of Congress in 1898. He was appointed an assistant attorney for the District of Columbia in 1891.

Very respectfully,

O. J. FIELD, *Chief Clerk.*

PAYMENT TO A. P. SHAW.

The CHAIRMAN. The next item is "For payment to A. P. Shaw for services as constable at Wewoka, Ind. T., etc., \$975.07." I see you have a note here. Have you anything in addition to the note to offer?

Mr. KENNARD. No; I think the note makes a brief explanation of the whole situation.

PAYMENT TO WESTERN UNION TELEGRAPH COMPANY.

The CHAIRMAN. The next is "For payment to the Western Union Telegraph Company, etc., \$47.37." What is the trouble with that? What is the delay?

Mr. KENNARD. We are sorry there was delay, but there was some question about the amount to be paid, and the bills were not settled in the usual manner at the usual time, as they would have been otherwise.

The CHAIRMAN. Has this item been audited?

Mr. KENNARD. We have examined the telegrams in detail, and counted the words, and ascertained the amount due.

The CHAIRMAN. And this is the aggregate amount?

Mr. KENNARD. Yes, sir; this is the correct amount. It has not been audited in the Treasury.

The CHAIRMAN. You have gone into it carefully?

Mr. KENNARD. Very carefully.

The CHAIRMAN. Did they try to get more; is that the reason it was not paid before?

Mr. KENNARD. They claimed more than we were disposed to pay at the time.

JUDICIAL.

The CHAIRMAN. "For salary of the additional district judge for the eastern district of Pennsylvania, \$1,500." That is a new office created?

Mr. FIELD. Yes, sir; that is the new office recently created.

The CHAIRMAN. The next item is similar—"For salary of the additional district judge for the eastern district of Pennsylvania" for the fiscal year 1905, \$6,000. The other item was for 1904?

Mr. FIELD. That provides for the salary for the remainder of this year and for next year?

The CHAIRMAN. Has the judge been appointed?

Mr. FIELD. No, sir; he has not been appointed yet.

SALARIES, FEES, AND EXPENSES OF UNITED STATES MARSHALS.

The CHAIRMAN. "For payment of salaries, fees, and expenses of United States marshals and their deputies, to include payment for services rendered in behalf of the United States or otherwise, \$40,000." You had your estimate of \$1,300,000. What has occasioned the increase?

Mr. KENNARD. The expenses under that appropriation are largely fixed by law, and they are not altogether controllable by the Department; and there has been considerable increase in the business, particularly in many western districts, so that we will need the money, and it will seriously embarrass us if it should not be appropriated.

The CHAIRMAN. It goes for salaries, fees, and expenses of marshals and their deputies. Do the marshals all get salaries now?

Mr. KENNARD. Yes; it is fixed by law; yes, sir.

The CHAIRMAN. Where do the fees come in?

Mr. KENNARD. They are paid to field deputies for services rendered.

The CHAIRMAN. Their compensation is fixed by fees?

Mr. KENNARD. Yes; it is a variable quantity, depending upon the amount of work they do.

The CHAIRMAN. That is where this difference comes in?

Mr. KENNARD. Yes, sir; that is where the difference comes in, and it is also due, in part, to the slight increase in the payments to the office deputies.

The CHAIRMAN. Who fixes the pay of office deputies?

Mr. KENNARD. They are fixed by the Department.

The CHAIRMAN. How much have you fixed the pay of office deputies at during the fiscal year?

Mr. KENNARD. It would be very difficult to answer that question, even with a most thorough investigation.

The CHAIRMAN. Why do you have so many clerks?

Mr. KENNARD. Every increase for expenses for office deputies does not mean a corresponding increase in the appropriation, because we change from field deputies to office deputies if we feel it will be more economical. We try to make the best arrangement we can. We try to have all office deputies, if it is best for the interest of the Government.

The CHAIRMAN. Instead of paying fees to the field deputy, you make him an office deputy and send him out?

Mr. KENNARD. We pay him a salary and his expenses. In either case the amount of business determines the fees.

The CHAIRMAN. What is the salary paid—the usual salaries paid—say, in a district like the district of Indiana, for the office force?

Mr. KENNARD. We report it every year in the annual report of the Attorney-General, showing just how much salary we pay to each deputy.

The CHAIRMAN. That is shown in your report, is it?

Mr. KENNARD. Yes, sir.

SALARIES OF UNITED STATES DISTRICT ATTORNEYS, ETC.

The CHAIRMAN. The next paragraph is, "For salaries of United States district attorneys and expenses of United States district attorneys and their regular assistants." For 1904 it is \$7,000. You simply pay the amount fixed by law there?

Mr. KENNARD. As far as salaries are concerned, yes.

The CHAIRMAN. What else do you pay out?

Mr. KENNARD. Their traveling expenses, and the expenses of their assistants, which are variable, according to circumstances.

The CHAIRMAN. Those you require to certify and file receipts as to their traveling expenses?

Mr. KENNARD. Yes; they must submit vouchers and present their accounts.

The CHAIRMAN. For the fiscal year 1903 the amount asked is \$43.87. That is ascertained, I suppose, and came in after the money had been turned in.

FEES OF CLERKS.

"For fees of clerks, \$35,000."

Mr. KENNARD. That matter has been brought to the attention of the committee before. The increase there is due to the decision of the Supreme Court in the Finnell case, relative to clerks' per diems.

The CHAIRMAN. That is the matter we tried to legislate on?

Mr. KENNARD. Yes. It was stricken out by the Senate, and a letter was written going into it fully.

The CHAIRMAN. This is made necessary by that decision?

Mr. KENNARD. Yes. We do not know whether this is anywhere near enough. We can not tell.

The CHAIRMAN. You have to let it run along to see just how much the evil does cost, if it is an evil.

RENT OF ROOMS, UNITED STATES COURTS.

The next item is "For rent of rooms for the United States courts and judicial officers, \$10,000." What is the trouble there?

Mr. KENNARD. That is not any considerable increase over the expense for the fiscal year 1903, which was \$118,747. This, if appropriated, will make the appropriation \$120,000. The amount paid there is also variable. We pay for many court rooms by the day. In Oklahoma, a county court is held in every county, and we rent rooms for so much a day, the best we can in every case. In other cases we rent by the term. It is not merely a question of the payment of fixed rental.

PAY OF BAILIFFS AND CRIERS.

The CHAIRMAN. The next is "For pay of bailiffs and criers, not exceeding three bailiffs and one crier in each court, except in the southern district of New York," etc. You ask for \$10,000 deficiency.

Mr. UNDERWOOD. Is that the usual proviso?

Mr. KENNARD. Yes, sir; we will need that.

The CHAIRMAN. You will need that?

Mr. KENNARD. Yes, sir.

The CHAIRMAN. You had \$175,000 all told last year?

Mr. KENNARD. Yes, sir.

The CHAIRMAN. This will be an increase of \$5,000. Has there been more business this year? These bailiffs are paid by the day, are they?

Mr. KENNARD. This will make the same amount—no; it will make \$5,000 less than was actually appropriated for the fiscal year 1903, if this should be appropriated.

The CHAIRMAN. Yes; you would be making a saving of \$5,000. That is right.

UNITED STATES PENITENTIARY, ATLANTA, GA.

The next item reads, "For miscellaneous expenditures at the United States penitentiary at Atlanta, Ga., including all objects specified under this title of appropriations in the sundry civil appropriation act for the fiscal year 1904, \$4,000."

Colonel CLAY. We have an appropriation, Mr. Chairman, of \$25,000. That is one of the subheads under the appropriation "Miscellaneous expenditures," specifying a whole raft of things for the present fiscal year, \$25,000. I went all over that matter some time ago and came to the conclusion that we would need about \$6,000 in order to come out square, because we had at that time only \$5,400 left, with more than one-third of the year yet to run and with several thousand dollars of new obligations. But after consultation with the warden recently I cut down the amount to \$4,000. We had intended to estimate for \$6,000, but I cut it down to \$4,000, and so it appears in the estimate—the lowest figure that can be got by abstaining from some purchases that we would otherwise have made.

I think it would be a good idea to let this amount include the musician. You know, among the different things we have there we have express authority under the general phrase "miscellaneous expenses," in the discretion of the Attorney-General, to buy books for

use in chapel, and so on; but nothing is specified for a musician in chapel, and it would be rather useless to have a lot of hymn books and manuals of service unless there was a musician there. We have been employing a musician there at a small cost. At the highest it would not cost more than \$200 or \$300 a year to employ somebody to go out there on Sundays and play on the instrument.

The CHAIRMAN. I think we had better take that up in the sundry civil bill on the Senate side. Have you not any musicians in the penitentiary already that you could utilize?

Colonel CLAY. There might be some that would sing godless songs; but whether they would have any that could drill those men is another matter.

Mr. FIELD. Mr. Chairman, if I could ask you informally about that item of \$5,000 for miscellaneous expenses for next year—the bill has provided that there will be no deficiencies, and we will have to violate the law. That \$10,000 appropriated will not pay those expenses.

The CHAIRMAN. We want to make you be more economical.

Mr. FIELD. We simply wanted to notify you it would not do, and ask you now to make that appropriation—

Mr. BURKETT. That is all you have to do—

Mr. FIELD. Otherwise we will have to close up.

The CHAIRMAN. We shall be back here next winter.

Mr. FIELD. We shall come back, too.

COAST AND GEODETIC SURVEY.

STATEMENT OF MR. OTTO H. TITTMANN, SUPERINTENDENT.

The CHAIRMAN. Turn to page 73 of the bill before you, Doctor. You have an item there "For repairs and maintenance of the complement of vessels used in the Coast and Geodetic Survey, including the traveling expenses of the person inspecting the repairs, \$8,500."

Mr. TITTMANN. Yes, sir.

The CHAIRMAN. Please explain the necessity for the deficiency.

Mr. TITTMANN. The total appropriation that was granted to us was used in the ordinary repairs of ships, and we had not provided for the vessels that had to go to Alaska. We could not postpone the repairs of the ships until the new appropriation would become available, because the season when the work can be done in Alaska is very short, and the vessels had to go immediately. It is very expensive, of course, to have them lie idle until sometime in July or August; in fact, they could not have gone up. I therefore authorized that the repairs should be made. I called them extraordinary repairs, because quite a large part of this sum absolutely could not be foreseen.

The furnaces of the *Patterson* gave out last fall on her way to Dutch Harbor, and we had to get new ones and install them; and that entailed an expense of about \$3,000.

Then, owing to the urgency of the calls of the Navy Department for the *Kiska*, we are fitting out now the *McArthur*, one of our vessels; and the inspector of hulls—those are not officials of our Bureau, but officials of another bureau—insisted that she must be overhauled, because her copper had not been taken off for about eight years. We

had to do that, and that will entail an expense of about \$8,000. That has not been completed on this coast.

We had to send the *Endeavor* down to Key West. She had not been to sea for a long time. We kept her in the Chesapeake, and the necessity for this service necessitated our spending some money on her.

This expense, authorized in that way, amounted to about \$8,050. The \$450 left in there I left as an emergency, because I could not tell just what would be needed. The repairs were not completed.

TREASURY DEPARTMENT.

PRINTING AND BINDING.

STATEMENT OF MR. GEORGE SIMMONS, CHIEF OF DIVISION OF STATIONERY, PRINTING, AND BLANKS, TREASURY DEPARTMENT.

The CHAIRMAN. On page 89 of the bill, Mr. Simmons, you will see the item, "For printing and binding for the Treasury Department, \$30,000."

Mr. SIMMONS. I have here a statement, Mr. Chairman, of the condition of the appropriation.

The CHAIRMAN. Will you just read it to us, and let it go into the record?

Mr. SIMMONS. Yes, sir.

Statement of appropriations and expenditures for printing and binding, Treasury Department.

Expended, fiscal year 1903.....	\$433, 000
Appropriation, fiscal year 1904.....	400, 000
Placed to credit of Department of Commerce and Labor, under deficiency act of March 3, 1903.....	85, 000
Available balance.....	315, 000
Expended to April 1, 1904 (including estimates on unfinished requisitions).....	288, 000
Unexpended balance April 1, 1904.....	27, 000
Estimated deficiency.....	30, 000

The amount placed to the credit of the Department of Commerce and Labor under the deficiency act of March 3, 1903, \$85,000, was the proportion of the appropriation that belonged to the outgoing Bureaus of our Department which went into the new Department of Commerce and Labor.

The CHAIRMAN. That deficiency of \$30,000 will be necessary to conduct the business?

Mr. SIMMONS. Yes; we think that will be necessary, Mr. Chairman.

REVISION OF ACCOUNTS.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, April 11, 1904.

Hon. JAMES A. HEMENWAY,
*Chairman of the Committee on Appropriations,
House of Representatives.*

SIR: Referring to your communication of the 9th instant to the Comptroller of the Treasury requesting his views on the following proposed resolution:

Provided, That hereafter no appropriations made to pay a claim certified by an Auditor and reported to Congress for an appropriation shall preclude the Comptroller of the Treasury from revising the account,

I would say, in my opinion, that it would be dangerous legislation to substitute the judgment of any Comptroller of the Treasury for that of Congress expressed in a law appropriating a specific amount to pay a specific claim. The Comptroller would necessarily be authorized to allow less as well as to increase the amount appropriated.

I would suggest that where your committee is in doubt as to the correctness of a claim certified to it by an Auditor, either as to the amount or its justness as a whole, it can refer the same, before taking action thereon, to the Comptroller, through the Secretary of the Treasury, with a request that he direct said officer to reexamine the same.

Respectfully,

L. M. SHAW, *Secretary.*

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, April 11, 1904.

Hon. JAMES A. HEMENWAY,
*Chairman of the Committee on Appropriations,
House of Representatives.*

MY DEAR HEMENWAY: In compliance with the regulations of the Treasury Department I submitted your communication of the 9th instant to the Secretary for his answer, which I herewith inclose. The sentiments of the Secretary are my sentiments.

Yours, very truly,

R. J. TRACEWELL.

GENERAL ACCOUNT OF ADVANCES, NAVY.

NAVY DEPARTMENT,
Washington, April 12, 1904.

SIR: I forward herewith memoranda prepared for me upon the subject of general account of advances. I confess that the memoranda do not make the subject clear to me. I should take pains to study it

thoroughly myself and endeavor to come to a clear understanding of it, except that I know it is the wish of the committee that the information be sent at an early hour.

Very respectfully,

W. H. MOODY,
Secretary.

Hon. JAMES A. HEMENWAY,
*Chairman Committee on Appropriations,
House of Representatives.*

[Memorandum for the Secretary of the Navy.]

NAVY DEPARTMENT,
BUREAU OF SUPPLIES AND ACCOUNTS,
Washington, D. C., April 12, 1904.

Referring to request of the subcommittee in charge of the preparation of the general deficiency appropriation bill for an explanation of the various items to reimburse general account of advances, the Bureau begs to state that the estimates therefor were submitted from the Office of the Auditor for the Navy, Treasury Department, and, if any explanation of the details is required, the information will have to be obtained from that Office.

2. The Bureau understands, however, that the committee desires a clear statement with reference to "General account of advances," and the method of operating expenses thereunder. Prior to 1878 the appropriation "Pay of the Navy" was used exactly in the same manner and for the same purpose; but, as that appropriation was comparatively small, advances therefrom for all expenditures abroad exhausted the appropriation long before the end of a fiscal year, thus leaving no funds available for the actual pay of the officers and men of the Navy.

3. To obviate this difficulty the act of June 19, 1878, was passed by Congress, authorizing the Secretary of the Navy—

To issue his requisitions for advances to disbursing officers and agents of the Navy under a "General account of advances," not to exceed the total appropriation for the Navy, the amount so advanced to be exclusively used to pay current obligations upon proper vouchers, and that "Pay of the Navy" shall hereafter be used only for its legitimate purpose as provided by law.

That the amount so advanced be charged to the proper appropriations and returned to "General account of advances" by pay and counter warrant; the said charge, however, to particular appropriations shall be limited to the amount appropriated to each.

That the Fourth Auditor (now the Auditor for the Navy) shall declare the sums due from the several special appropriations upon complete vouchers, as heretofore, according to law; and he shall adjust the said liabilities with the "General account of advances."

4. It will thus be seen that the "General account of advances" is therefore purely a bookkeeping account for the convenience of all concerned, owing to the peculiar conditions under which expenditures on account of the naval service are made in all parts of the world. All funds advanced to pay officers afloat are charged under this head of "General account of advances." The expenditures are made on regularly authenticated vouchers, chargeable to the particular appropriations to which they legitimately pertain, and when so charged on the books of the Auditor's office and this Department the amounts thereof are credited to "General account of advances."

5. By reason of the uncertainty of foreign expenditures it is not

possible to accurately estimate same in advance, and therefore it not infrequently occurs that when the expenditures both at home and abroad are brought together a deficiency is shown, which it was impossible to foresee or prevent, and generally such cases are not known until long after the end of the fiscal year, or until accounts for all expenditures abroad are received.

6. No appropriation is ever made directly to "general account of advances," except in cases of such deficiencies, which are reported to Congress from the Auditor's Office to enable that Office to make the necessary adjustment of accounts as required by the law above quoted. The account thus becomes what would be termed in a mercantile establishment a "suspense account" for bookkeeping purposes, as above stated. No money being appropriated under this head, no expenditures can be charged directly thereto, the bookkeeping theory being that whatever is charged to the account must ultimately be credited in some form, so that if it were ever possible to close out business on a given date the account would stand balanced on the books of both Departments.

7. The Bureau will be glad to furnish any further explanation or information, if any, that the committee may desire.

H. T. B. HARRIS,
Paymaster-General, U. S. Navy.

[Addenda to memorandum for the Secretary, April 12, 1904.]

The amounts of deficiencies asked for by the Auditor for the Navy Department, reimbursing general account of advances, represent really a round-up of the several overexpenditures under various appropriations therein stated.

Asking thus for this money under general account of advances does not mean that it is to be appropriated for expenditure under general account of advances, but that this account has been drawn on for just that much in excess of the proper appropriation under which expenditures were made. For example: The item of \$61,910.54, "Maintenance of colliers, 1903," appears under this deficiency estimate for general account of advances. This means that after the estimates for the year had been made and the appropriation fixed for the year ending June 30, 1903, expenditures were nevertheless made in excess of the amount so appropriated, because additional colliers were placed in commission; and, consequently, when the returns and reports were all in, it was found that general account of advances had been drawn on by "Maintenance of colliers, 1903," in the sum of \$61,910.54 more than the appropriation would warrant; and the Auditor for the Navy Department now comes and asks that said sum be appropriated to cover these expenditures which, in fact, have already been made.

To act favorably upon this item will not authorize the expenditure of any more money, but simply legalize the expenditures which have, as stated above, already been made.

General account of advances has no money on hand, nor does it ever have a credit balance on hand. It is simply a working account by which disbursing officers, afloat and abroad, are enabled to make expenditures without in each case inquiring and ascertaining (if it were possible) the exact state of the individual appropriations under which

expenditures are to be made. It necessarily follows that when the reports all come in and the expenditures under the several actual appropriations are compared with the appropriations themselves in many cases there is shown a deficit—exactly similar to the one, for example, of “Maintenance of colliers” in the estimate referred to.

The same explanation applies to all the various other items on this list, with the exceptions of appropriations prior to the fiscal year 1902, which, of course, were carried to the surplus fund.

H. T. B. HARRIS,
Paymaster-General, U. S. Navy.

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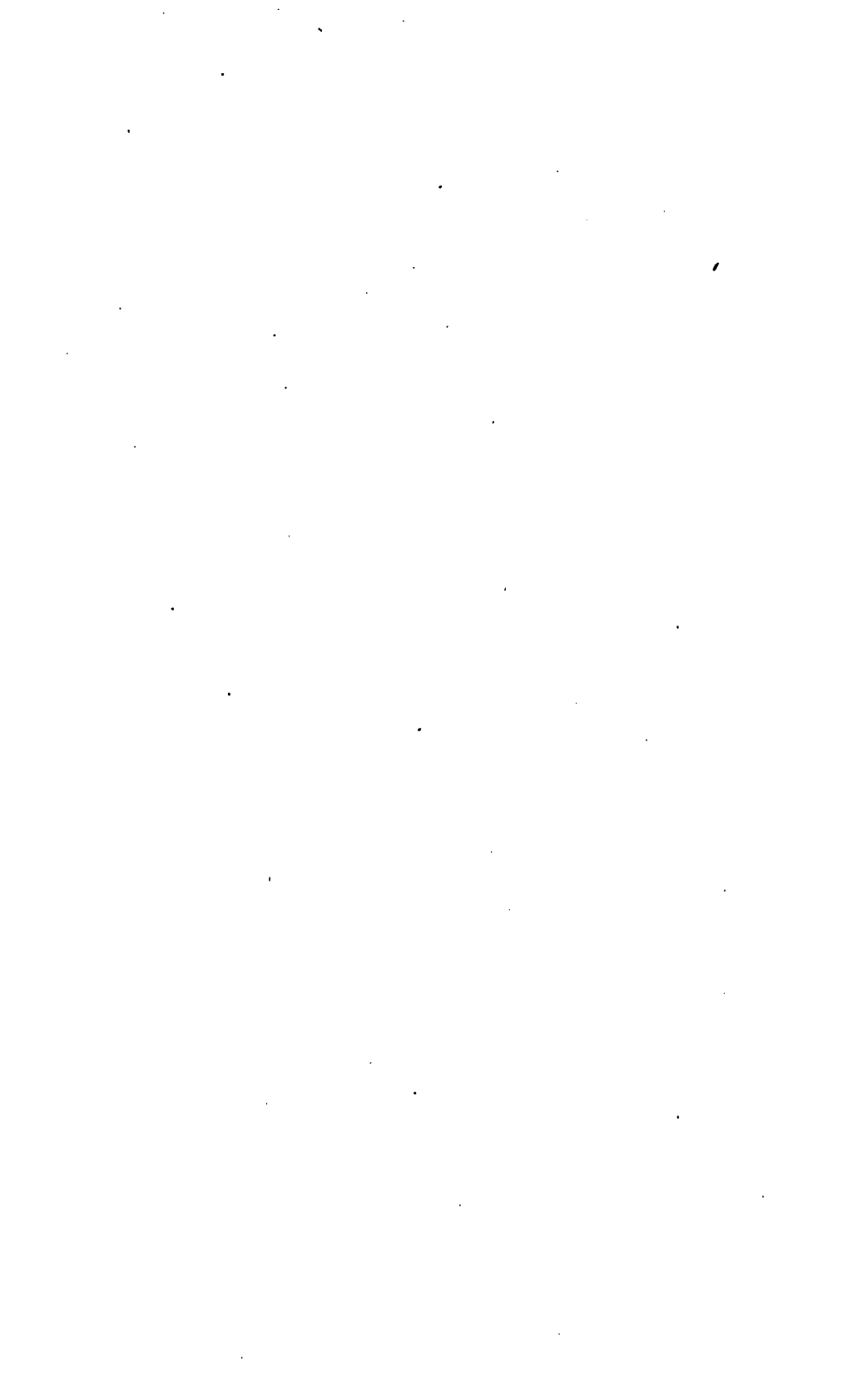
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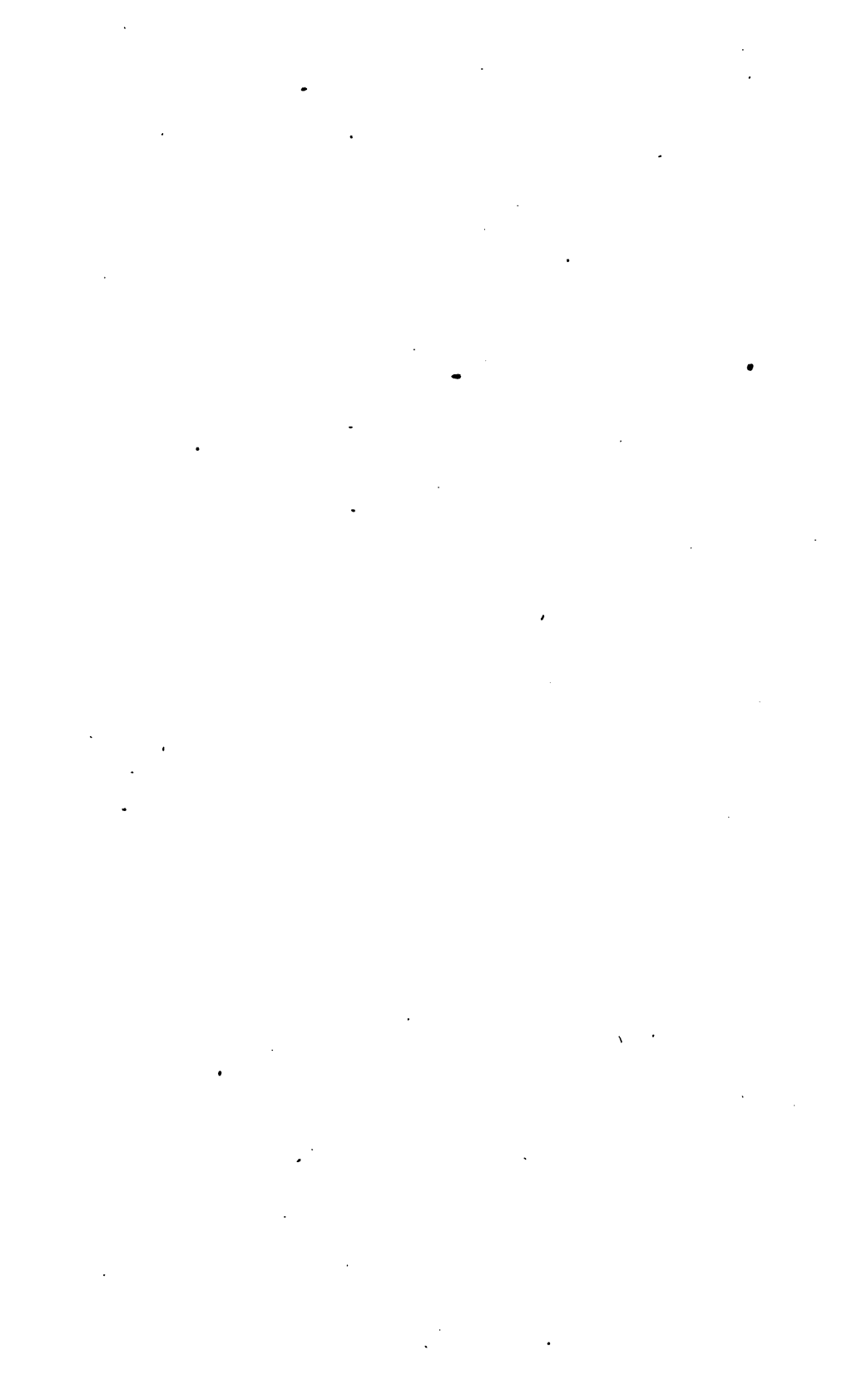
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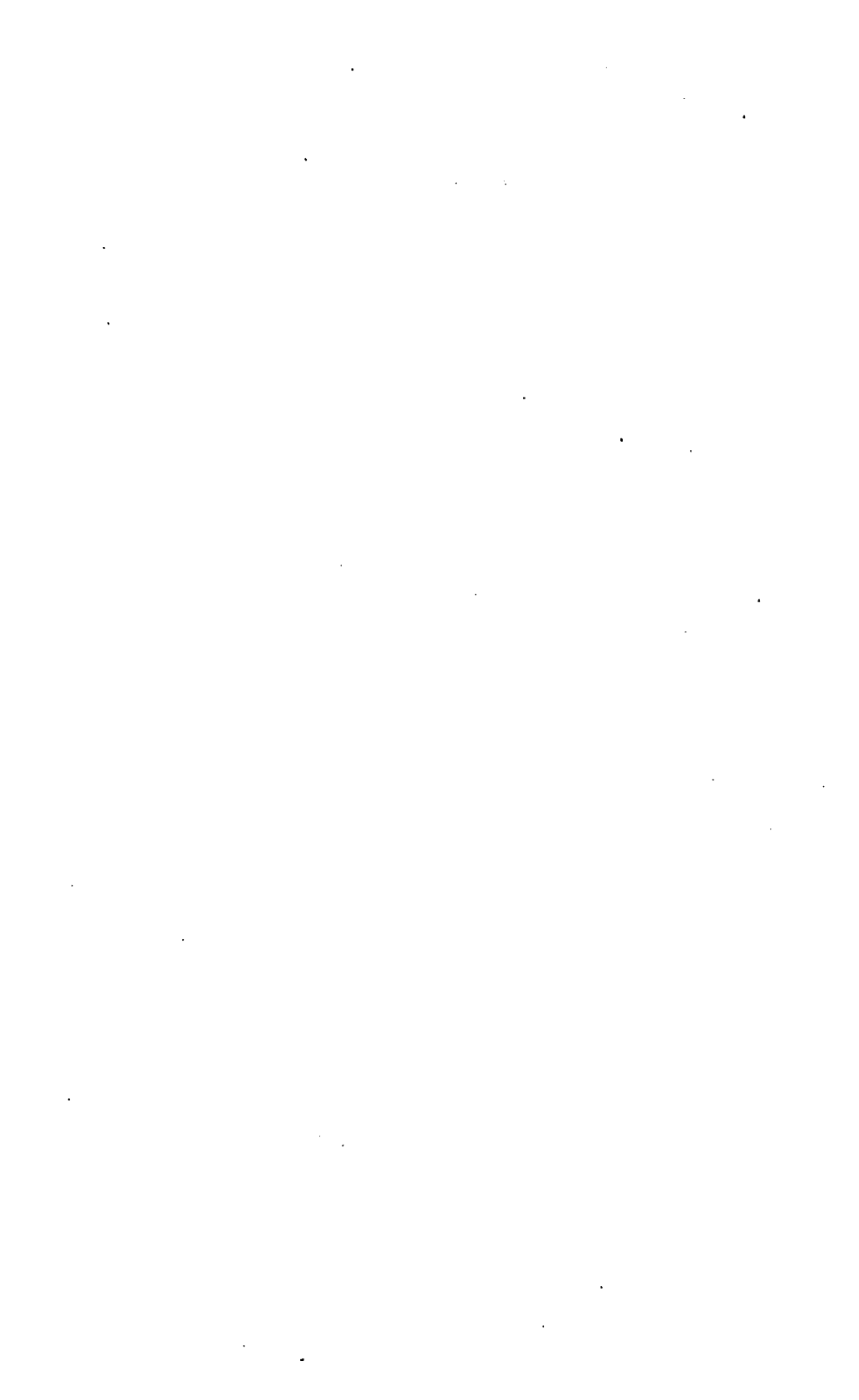


















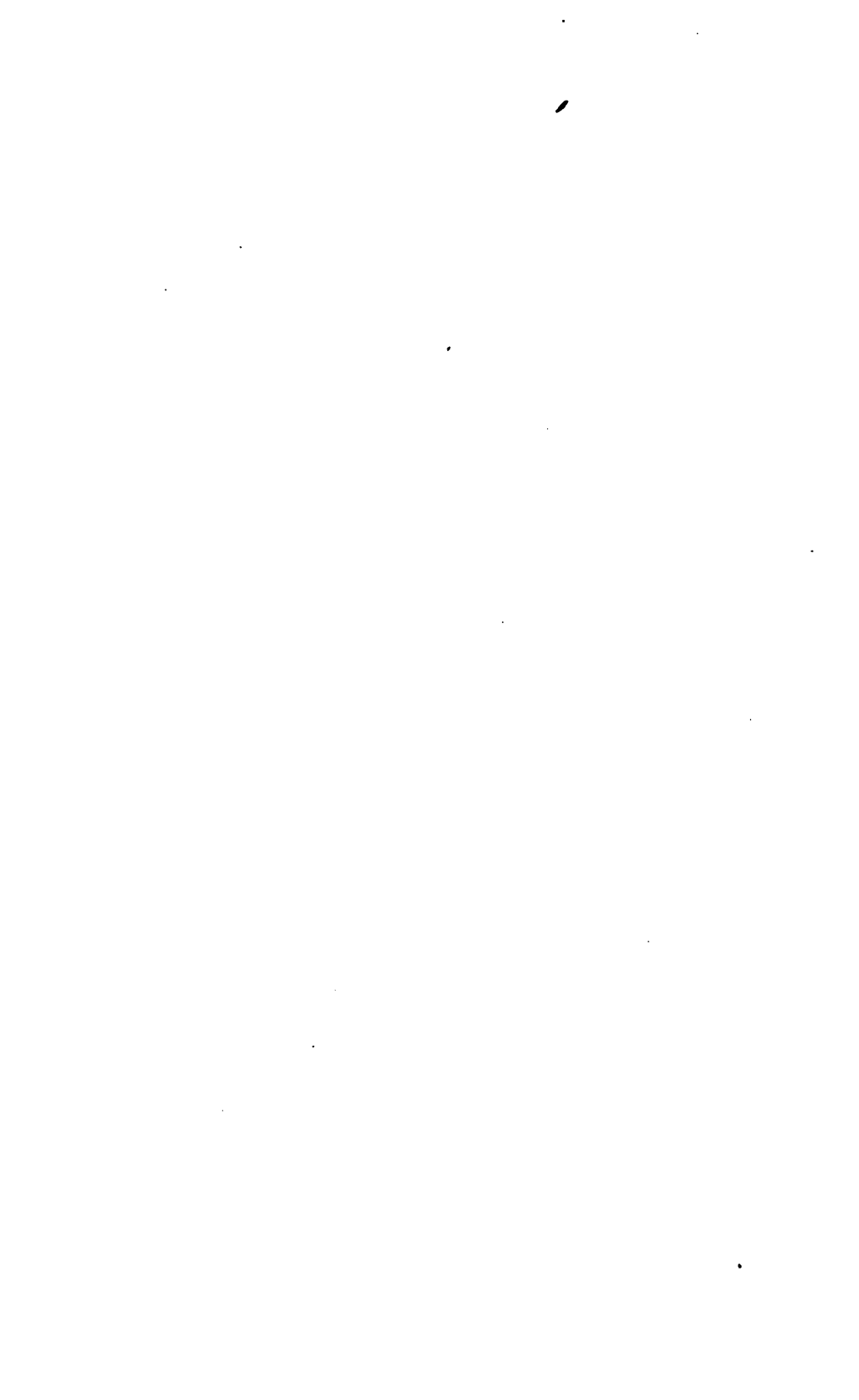








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